



Jackson Stubbs listening to a toy frog croaking.

# Fighting for the rights of Australia's most vulnerable citizens

**Judie Stephens talks about her fight for the rights of her grandson Jackson Stubbs, and for the rights of other badly injured people.**

Dare to Do Australia – [www.daretodo.asn.au](http://www.daretodo.asn.au) is her personal advocacy platform.



**A**s recently as four years ago, I had no real conception of what 'actuary' meant nor did I know Richard Cumpston. That was all about to change...

On 23 February 2000, I was in Canberra with a group of people lobbying Treasury for structured settlements. Richard had provided estimates of the savings for the Commonwealth, confirming earlier work by John Walsh. The spokesperson for Treasury, Dehne Taylor advised that he had made a submission regarding structured settlements to Treasury. I asked him, "Would you send us a copy?" He said, "Absolutely not". He then continued promoting his perceived merits of taxing lump sums! In disgust, I stormed out of the unfinished meeting. Treasury's attempt to tax lump sums failed, thank goodness!

Richard and I met on a couple of occasions in Sydney when we were with the Structured Settlement Group. I then realised the value of actuaries when it comes to numbers and understood how they impact on people.

Our next challenge was Jackson's settlement. I asked Jackson's solicitors to get some help from Richard and the settlement was completed in March 2003. As a result of a well organised case, brilliant barrister Paul Jones and Richard's figures, the undisclosed settlement will be enough. However, you then have a bag of money and realise the next stage is a good well balanced investment strategy and the appointment of an appropriate Financial Manager.

The Office of the Protective Commissioner (OPC) is the government organisation in NSW that by a Supreme Court Order became Jackson's Financial Manager. After seven long years of mismanagement of other funding available to Jackson, nothing had really changed. The average man on the street chooses his bank, hairdresser and accountant. So why should people who have trustees be forced by default in NSW to have the OPC?

We needed figures on the potential gains from investing Jackson's award through a private manager, rather than the



OPC. I rang Richard who said, "Judie, I am going sailing for a couple of days but I will calculate these numbers before leaving tonight". He and Paul Jones (Jackson's Barrister) gave their work for this project pro bono.

Jackson's case was heard and you can read the NSW Supreme Court Judgement citation, *JS V Protective Commissioner & Anor Re Protected Estate of JS (2003) NSWSC 621 revised - 15/07/2003*.

Richard and I remained focussed on changing the law protecting the financial rights of Australia's most vulnerable citizens. My first attempt to change the law was to meet with Presiding Commissioner Helen Owens and Associate Commissioner Cate McKenzie of the Australian Government Productivity Commission investigating the Disability Discrimination Act 1992. Details of the Public Hearing in Sydney can be found at <http://www.pc.gov.au/inquiry/dda/index.html>. Log onto Submissions and Transcripts 19 February 2004 to see my submission, the purpose of which is to ensure that the OPC does not have a monopoly and that people who need a financial manager can have a choice of trustees.

Richard has become a family friend. He knows Jackson and has visited our home. I have the greatest admiration for Richard who gives his time and expertise to ensure that social justice prevails. My belief is that it is not how much you know or how much you have – it is simply how much you care that makes the difference.

The purpose of this article is to encourage Australian actuaries to consider the value of sharing their professional knowledge and friendship to protect the rights of the most vulnerable in our community. If you care, you too can dare to make the difference.

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Richard Cumpston, Jackson, Judie Stephens & Samantha



### Richard Cumpston talks about how actuaries can help

Actuaries usually work for wealthy institutions – governments, insurers, large companies. What responsibilities do actuaries have towards individuals, who are sometimes victims of institutional incompetence? Apart from notable exceptions like Roger Sawkins, actuaries have no 'pro bono' tradition of working to help those unable to pay large fees.

Structured settlements have been used in Australia since at least 1996 but their taxable nature prevented widespread use. Following intensive work by the Commonwealth Department of Human Services and Health and the NSW Motor Accidents Authority, the Structured Settlement Group was formed in January 1999. The government was opposed in principle and it took many meetings with the government and the opposition to achieve the tax treatment announced on 26/9/01. Judie's personal lobbying was crucial in this long struggle.

The Protected Estates Act 1983 provides for the management by the OPC of the property and affairs of persons who are incapable of managing their own affairs. The high costs of helping these persons were in part met by initial charges on capital and a charge of 5.25% on investment income. Shortfalls were met by ad hoc levies on fund balances, averaging about 1.2% pa in recent years. These large levies were not properly disclosed and were ignored in the key judgement *Government Insurance Office of NSW v Rozniak (1992) NSWLR 665(CA)*.

Despite a new fee structure and wider investment options, the OPC does not seem able to consult effectively, make financial plans or invest funds promptly and effectively. Jackson's award is still not invested in broad range investments appropriate to his needs. The families of other severely disabled persons are in continuing conflict with the OPC.

Judie's successes have come from unflinching determination, hard work and innumerable meetings. As actuaries, we have the knowledge and ability to help those less fortunate. ▲

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