

Failure to follow-up positive test results

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Idameneo (No 123) Pty Ltd v Dr Colin Gross (2012) NSWCA 423 concerned the infection to the partner of a patient who received indeterminate test results for HIV. The patient, LB, had changed her address details and failed to update the clinic when she had attended for her tests. The clinic, in breach of its practice, had failed to confirm her current details.

She subsequently attended at the clinic and was seen by another doctor, who failed to let her know of the need for confirmatory blood tests. By the time she was contacted by the clinic, some two and a half months later, her partner had acquired HIV from her.

The Court found that the clinic and doctors had failed in their duty to follow up with LB for further testing and failed to take steps open to it to contact her within a reasonable period, such as searching the directory, utilising the police, contacting family members and searching the electoral roll. The Court further found the company that provided the doctors with administrative support also liable for failing to maintain adequate records and procedures.

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