

## LETTERS TO THE EDITOR

### DIVING RELEASES AND WAIVERS

106 Bent Street  
Northcote  
Victoria 3070,  
20/1/96

Dear Editor

As a doctor and a diver I took my SPUMS Journals with me to read while I was on holiday in Gizo in the Solomon Islands in July 1995. I booked and paid in advance through a travel agent and my payment included six boat dives. I arrived in Gizo yesterday afternoon.

I read the March issue of the SPUMS journal which discusses releases and waivers which divers may be required to sign before being allowed to dive. On page 52 of that issue, an article states that on occasion, forms may be signed "under duress" after the diver has boarded the boat. In my case the dive operator handed the forms to the divers before boarding the boat, but AFTER the divers had arrived on the island. This letter is written on the back of one of the forms. (see page 84)

My reading of the release is that it releases the dive operator from all responsibility, both civil and criminal, once the diver boards the boat. The diver (and his/her heirs and executors) agree not only not to sue if something goes wrong, but also agree not to press charges against the dive operator, even if he/she is criminally negligent.

I questioned the wording of the waiver and I was met by a barrage of emotional responses by the dive operator and his employee:

- 1 We have never had an accident in 11 years. (I am sure their safety record is excellent).
- 2 This agreement does not stand up in court. (See page 18, SPUMS March 1995).
- 3 Everybody signs it, you are the first person in two and a half years to object. (I used to sign these forms, before I read the offending Journal).
- 4 If you are not happy to sign then you cannot be a very good diver. (I think I am a competent diver, but I do not think that kind of statement should be used to persuade a diver to sign a release).
- 5 It just means you have to be responsible for your actions. (It does mean that I have to be responsible for my actions, and that the dive operator does not have to be responsible for his or her actions).
- 6 Just stop being stupid and sign, nothing will happen. (That is not the point).

I was told that if I did not sign I could not board the boat (ie. no snorkelling nor even spending the day on a

tropical island). I asked if I could be refunded my money and go to the dive operator down the road. I was told no refunds.

I did sign a form but added underneath my signature that I had signed the form "under duress" after arriving on the island and being told my money could not be refunded. The dive operator's employee tore the form up and told me to stop being so stupid, that he left the States to get away from people like me. In the pathetic and time honoured female way I burst into tears, I realised I had backed myself into a corner, made a fool of myself, upset other people, and missed out on a day's diving in idyllic conditions with a reputable company with an excellent safety record.

I will of course sign the form tonight and hopefully get my six dives. I am concerned, however, that:

- 1 these forms protect reputable diving companies from unscrupulous divers, but do not protect reputable divers from unscrupulous dive operators.
- 2 the forms are not necessarily signed voluntarily.

I hope that this letter will spark some debate. Have I made a fool of myself and missed out on a days diving for nothing or do I have a valid point?

That is the end of the letter I wrote from Gizo on 17/7/95. The outcome was better than I expected. After I posted my letter I wandered down the road to the other dive shop on Gizo, Dive Solomons, run by an Australian called Troy Griffiths, which does not require such releases. When my situation was explained to him Troy very kindly let me dive at a heavily discounted rate.

Unfortunately I was not able to get a refund from Adventure Sports but apart from that everything worked out well. My copy of the March SPUMS Journal went with the divers on the boat! Perhaps the gist of those articles could be published in "DiveLog".

Elizabeth Christie

### Key Words

Legal, recreational diving.

### *Editorial comment*

*Adventure Sports Gizo were sent a copy of Dr Christie's letter. Their reply was that they had acted on NAUI (National Association of Underwater Instructors) advice and that some of Dr Christie's statements were incorrect. They enclosed a copy of a letter to them from NAUI, which NAUI did not want published as it was*

*Continued on page 84*