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# Negligence -- Infant Can Recover Damages for Pain and Suffering -- Expert Testimony Not Necessary

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## JUDGES' BULLETIN

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SEPTEMBER 22, 1972

BULLETIN NO. 152

NEGLIGENCE -- INFANT CAN RECOVER DAMAGES  
FOR PAIN AND SUFFERING -- EXPERT TESTIMONY NOT NECESSARY

In Capelouto v. Kaiser Foundation Hospital (September 11, 1972), -- Cal.3d -- the Supreme Court held that an infant plaintiff can recover for pain and suffering incurred as the result of a negligently caused injury. Language to the contrary in Babb v. Murray, 26 Cal.App.2d 153, was expressly disapproved. The Court also held that expert testimony is not necessary to establish a basis for an award for pain. Not only is lay testimony sufficient, but the jury may infer that the infant had pain even in the absence of any explicit evidence showing pain if the injury is such that the jury in its common experience knows it is normally accompanied by pain.