

28 February 2012



**ASBESTOS DISEASES SOCIETY
of AUSTRALIA INC.**

Dear Members and Friends

The Asbestos Diseases Society of Australia Inc (ADSA) will hold its Annual General Meeting (AGM) on Sunday the 25th March 2012 at 2pm at the City of Stirling Library - Osborne Park Community Centre. The Centre is located almost diagonally from our office in a north-east direction, behind the BP service station on the corner of Main and Royal Street - opposite the Osborne Park Hotel car park.

All members and friends are cordially invited to attend the AGM. Afternoon tea and light refreshments will be served upon conclusion of the AGM and there will also be an opportunity for members and friends to have an informal chat with guest speakers, meet other members in a similar predicament and exchange information. To assist us with seating and catering arrangements, please call our office on 9344 4077 to confirm the number of persons attending the AGM.

The formal part of the AGM Agenda will include receiving reports of the Society's activities during the preceding financial year and to elect officers and ordinary Committee Members of the Asbestos Diseases Society of Australia Incorporated for the Calendar Year 2012. The current members of the Management Committee of the Asbestos Diseases Society of Australia Inc. have consented to accept nominations for the 2012 Calendar Year. However, all additional nominations shall be accepted provided that they are in writing, signed by two financial members of the ADSA, accompanied by the written endorsement of the candidate who is a financial member of the ADSA and received by the ADSA Electoral Officer, PO BOX 1394, Osborne Park 6916, by Friday 16th March 2012.

Upon conclusion of the formal part of the Agenda several eminent medical specialists have graciously accepted our invitation to attend the AGM, to speak at the meeting and make a presentation on the latest medical research investigations and treatments of asbestos malignant diseases Lung Cancer/Mesothelioma. Also there will be good covering of the latest Compensation and Common Law matters by our legal experts. The following guest speakers have confirmed their attendance, Professor Anna Nowak, Professor Steven Matsuers, Professor Nicholas de Klerk, Dr Gregory Deleuil, the Medical Consultant of our organisation, Simon Millman S&G, and Laurie Kazan-Allen IBAS Coordinator UK.

1. 2011 CALENDAR YEAR

During the calendar year 2011 sadly more than 270 of our members and friends passed away from asbestos caused diseases. Regrettably there was also an alarming increase in the number of asbestos caused diseases ie, Mesothelioma, Lung Cancer, Asbestosis and Pleural Diseases amongst ADSA membership.

Pleural Plaques Legislation

Pleural plaque legislation was extensively debated by Members of both houses in the West Australian Parliament last year. However, the proposed Legislation somehow deviated from the intended medical terminology and was substituted with "diffuse pleural fibrosis." This issue was covered in some detail in our earlier newsletters. Both of these diseases, pleural plaques and diffuse pleural fibrosis, are part of benign asbestos related pleural diseases but they are in fact distinctly different and cause different abnormalities. It would seem to be that the larger numbers of pleural plaques cases was the catalyst for the Honourable Members of Parliament changing their position and choosing the negligible number of "diffuse pleural fibrosis" cases. (In our considered opinion the insurers and asbestos diseases perpetrators may have had some influence).

It is absolutely wrong that the community and public hospitals have to bear the burden of the cost of treating and caring for workers suffering asbestos caused pleural plaques instead of the perpetrators that negligently allowed unsafe work practices and exposure to asbestos. It is very unlikely that anything could be done to amend the appalling pleural plaque legislation before next year. Regrettably we may have to wait until next year when the State Elections will be held to mount our campaign for change. In the meantime please consider the appalling suggestion made by the Honourable Member for Vasse, when debating pleural plaques on 17 May 2011 in the Legislative Assembly that, "There is a chance that most of these people will develop asbestosis or mesothelioma anyhow and be captured by it."

Common Law Litigation

In our Christmas newsletter we wrote that our member Simon L finally received a favourable judgment in his claim against Amaca (James Hardie). Notwithstanding the revelation of unbelievable corporate misconduct and negligence which brought about his mesothelioma from exposure to asbestos at Castledare, James Hardie wasted no time to hastily rush back to the Court and lodge an Appeal on The Hon. Justice Edwin Michael Corboy decision. This unconscionable behaviour of wasting the Court's time by the Defendants strengthened our desire to lobby the West Australian Government for the introduction of a Jury System in Civil matters relating to asbestos caused diseases, particularly for persons suffering insidious cancers ie, mesothelioma and lung cancer. **In the interest of Justice** a Jury System similar to Victoria ought to be introduced in Western Australia without delay. A famous House of Lords Judge Lord Denning said "it is a fundamental duty of a Government to establish a fair and just system of justice for its citizens of resolving disputes." Therefore we should urgently consider with the help of our members and friends to start a petition to Members of Parliament for the introduction of a jury system for victims of asbestos diseases and their families.

Ecumenical Memorial Service

With the kind consent of Father Edmond Nixon, a moving Ecumenical Memorial Service to remember members and friends who have died from asbestos diseases was held at the North Perth Redemptorist Monastery on 25th November. A very successful ADSA Christmas Picnic was held again at Whiteman Park on 4th December. Some six hundred people attended and had a wonderful time in natural surroundings.

Fundraising Golf Tournament

Also last year on the 17th September 2011 we held a successful inaugural Fundraising Golf Tournament at Meadow Springs Golf Club in Mandurah for the research and treatments of Mesothelioma and Lung Cancer. We hope this year to double the amount raised.

2. THE HIGH COURT OF AUSTRALIA DECISION

On the 14th December 2011 the High Court of Australia handed down a significant decision in Amaca (James Hardie) v Booth. In a majority decision the High Court supported evidence that all material exposures to asbestos may be deemed a cause of Mesothelioma. There is no doubt that this particular decision is a precedent of significant substance which Courts throughout Australia may consider in the matters of asbestos diseases, mesothelioma and lung cancer. Perhaps the forthcoming appeal of Amaca (James Hardie) v Simon L (ADS member) may have a regard to the High Court decision of 14/12/2011 (date not set).

Recently we came into possession of interesting correspondence by the Insurance Lawyers advising the asbestos industry and their insurers of the potential consequences of the High Court decision. They believe the High Court's decision will impact in the way such cases will run at trial and also the question of insurance cover for mesothelioma cases in general. Further they suggest that the implications for the future cases might be that the defendants in mesothelioma litigation should assume that in the absence of compelling expert evidence of their own, each incremental negligently-caused exposure to asbestos will be deemed a cause of illness. Also, according to their estimates the asbestos claims will total 8 Billion Dollars over time.

Further Lawyers suggest that Governments and the community need to consider if there are alternatives to the cost intensive Common Law system available. It is absolutely appalling to read such a ridiculous suggestion that the Australian Governments and the community ought to be bailing out killer companies which most likely will be responsible for at least One Hundred Thousand deaths in Australia alone.

We believe a better and more cost effective option for the asbestos industry and their insurers ought to be to invest at least 10% of the 8 Billion Dollars Asbestos liability, without delay, into the National Centre of Asbestos Related Diseases (N.C.A.R.D) which is lacking the funds to advance its research progress to deliver favourable treatments and cures for asbestos caused malignancies.

It is our considered opinion the High Court's decision may have compelling implications on future mesothelioma cases for Defendant's, because each negligent exposure to asbestos will be deemed a cause of the disease. No doubt the asbestos corporations and their insurers should without delay get in touch with The Australian Research Cooperative N.C.A.R.D (Dr Matthew Tilbrook matthew.tilbrook@uwa.edu.au) or call our office (Ph: 08 9344 4077)

Subsequent to the Booth decision, the Victorian Court of Appeal considered a case against Amaca (James Hardie) and awarded a record sum of \$730,000 in damages for pain and suffering to Mr E. K who contracted mesothelioma through asbestos exposure.

3. TURIN: THE LARGEST ASBESTOS TRIAL EVER

On Monday 13, February 2012 the Italian Court in Turin delivered a historic verdict in the matter of Stephan Schmidheiny (65) who used to be the owner of the Swiss-Belgian industrial group Eternit (ETEX), which was in turn a major shareholder of the Italian subsidiary of Eternit between 1976 and 1986. The Belgian Baron Jean-Louis de Cartier de Marchienne (90) was a director and minority shareholder of Eternit Italy. On 13th February 2012 they were both sentenced to 16 years prison by an Italian court in Turin. The public prosecutor, Mr. Guariniello, had demanded 20 years in jail for both men, for "causing a continuing disaster in health and environment" and for wilfully neglecting safety regulations in the workplace. The prosecutor is to be admired for being the first public prosecutor in Europe, perhaps even in the world, to undertake such an important prosecution - and of such breath-taking scale. This massive scale of litigation was reflected in the attendance of over two thousand asbestos victims and representatives of reputedly more than sixty asbestos victims associations - all packed together like sardines in four court rooms of the enormous Palace of Justice. The accused, a Baron and the Billionaire are held responsible for the death of approx. 3,000 people in Italy, including employees, their family members and persons in the vicinity of the four locations of Eternit Italy. They will have to pay millions of euros in damages to the claimants - over 6,000 - who joined the criminal trial as civil parties. The claimants include victims and their heirs, local governments, trade unions and insurers amongst many. The Baron and Billionaire never appeared in Court, but rather were represented by a large number of defence lawyers. The last count of defence lawyers attending the verdict was twenty four (24).

The Criminal Division of the Court also awarded 25 million euros to the municipality of Casale Monferrato, where asbestos was mined in the local mountains and transported by open rail lorries through the town to the local asbestos factory. The municipality of Cavagnolo, another Eternit site, was awarded 4 million euros, while the region of Piemonte was awarded 20 million euros for the clean-up of the roads and countryside. Inail, an insurance firm specialising in occupational liability, was awarded 15 million euros. The defendants were also ordered to pay 70,000 to 100,000 euros to each of eight associations, including several trade unions and the WWF. The victims and their families are entitled to compensation ranging between 30,000 and 35,000 euros. By European standards, that is not particularly much, but cumulatively still amounting to a massive one million plus euros just for them.

We believe the judgment in the Turin Criminal Court is a turning point in history as justice has finally reached thousands of workers and members of the community that were killed, that were slaughtered, especially in Casale Monferrato and Cavagnolo, where the Italian Eternit asbestos plants were operating.

4. MEDICAL RESEARCH FUNDRAISING

To assist with the funding of medical research our organisation will run at least two major events every year specifically designed so that all proceeds will go directly to the researchers specialising in treatments and cures of asbestos caused lung cancer and mesothelioma. The scheduled events for this year are walking from Kalgoorlie to Perth 1st May - 5th May 2012 and a Golf Tournament 14th October this year.

Kalgoorlie to Perth Walk for Wittenoom Children May 1st to May 5th 2012

The Blue Asbestos Wittenoom Mining is responsible for the devastating health consequences of thousands of miners and their families. From the early 1940's until 1966, more than Twenty Thousand (20,000) people resided at Wittenoom. It is a conservative estimate that some Four to Five Thousand (4000 5000) children were either born in Wittenoom or arrived with their families. The consensus of **medical expert** opinion is that all persons who once resided in Wittenoom (including children) during the mining operations, had significant exposure to Blue Asbestos fibres and are therefore at a high risk of developing Asbestosis, a number of pleural diseases including Lung Cancer and Malignant Mesothelioma. To date more than Two Thousand (2000) Wittenoom workers including their families have died from Asbestos caused diseases arising out of the Wittenoom Blue Asbestos exposure. The toll of disease and death will continue to rise unless the medical research discovers treatments. **We would be enormously grateful to have organisations or families as sponsors of the Wittenoom Children fundraising walk from Kalgoorlie to Perth to support research for medical solutions which will save many lives of the unfortunate victims of asbestos diseases.**

Fundraising Golf Day October 14th 2012

This year we are planning again a fundraising golf tournament at the beautiful Meadow Springs Golf and Country Club in Mandurah and are hoping to achieve even bigger success than last year to save the lives of those affected by asbestos diseases and their families. However to achieve our goals we need the kind support of members and friends to perhaps seek a sponsoring company or individuals who may benefit from the sponsorship through advertising by having their logo prominently placed at the golf course. Also we would be grateful for any items that may be auctioned after the Golf Event similar to last year and if anyone can donate some items for the auction that would be greatly appreciated.

A gentle reminder to members the membership's subscriptions for 2012 calendar year are due now.

With best wishes and kindest regards,



Robert Vojakovic AM JP
PRESIDENT



*OUR BEST WISHES FOR A PEACEFUL AND
PLEASANT EASTER TO ALL
MEMBERS/FRIENDS AND THEIR FAMILIES
PRESIDENT, COMMITTEE AND STAFF*