



## Message from the Editor

We were pleased to continue our support of local communities by holding information stalls at festivals in Springvale and Whittlesea during the summer months. At these events we were able to spend quality time with community members and get to know other professionals living and working in the local area.

Over the course of the last few months we have received a high volume of enquiries from injured people concerned about their legal representation. Understanding that stress can have a negative impact on a patient's recovery, we have chosen to focus this edition on changing legal representation, and other topics that are frequently discussed between patients and medical professionals.

If you require further information about any of the topics discussed in this edition of the Legal Check-Up, contact us on (03) 9321 9988.

- Bree Knoester, Partner

## Workplace bullying

Workplace bullying continues to be the subject of many headlines, but it remains an insidious and often silent problem. Bullying includes incidents of outright violence or verbal or written abuse. It also manifests itself in more subtle ways such as social isolation, excessive workload and lack of support from colleagues and management.

With growing community awareness around mental illness, we have seen an increase in the number of people who have suffered psychological injuries at work.

Workers may be entitled to medical expenses such as counselling or weekly payments of compensation if they are unable to work by reason of bullying. In serious cases, we have helped workers sue their employers for failing to provide a safe workplace.

### Case study

In 2015, Special Counsel Liat Blacher and Lawyer Linda Hanley helped an injured worker establish that he had suffered a serious and permanent injury as a result of his workplace environment.

Throughout his employment, the worker was exposed to unsafe work practices and ongoing bullying and harassment. Unfortunately, these practices led to him developing a significant psychological injury and he was unable to continue working.

Liat and Linda applied to WorkSafe for a serious injury certificate on behalf of the worker, which was rejected on the basis that WorkSafe did not accept that the worker had suffered a 'serious injury'. The matter was referred to the County Court, where it was determined that the worker had suffered a psychological illness of sufficient seriousness to be considered 'severe' within the meaning of the law.

The win meant that the worker could pursue a claim for compensation for his pain and suffering as well as income he has lost in the past and will continue to lose into the future because of his work-related injury.

Psychological injury can have a major impact on both the ability to work and the ability to enjoy life. Medical treatment is an important way of helping people through this difficult time - so too can be getting legal advice from lawyers who can help people obtain compensation and protect their jobs.



## The stress of stress claims

A recent Return to Work Study concluded that GPs are 'reluctant' to follow through with psychological WorkCover claims.

This was attributed to the onerous and challenging nature of the workers' compensation regime. The study noted that dealing with this system can also cause additional psychological harm, which GPs are keen to avoid.

While we acknowledge the harshness of this regime, if patients present complaining of work-related psychological problems, we recommend that claims are followed through. Patients may be entitled to benefits even if the injury is not 'severe'.

### No fault benefits

WorkCover provides benefits to those injured at work, irrespective of negligence.

However, employees claiming compensation under the no fault system for psychological injuries, (common in bullying claims), are subject to the 'reasonable management action' defence which often leads to rejected claims.

When seeking a lump sum payment, claimants must satisfy a 30% impairment test. This is a high threshold, where the claimant would be largely incapacitated with extreme psychological damage. Comparatively, for TAC claims, the threshold is only 10%.

### Pursuing common law claims

To pursue damages at common law, if the 30% impairment is not satisfied, claimants must demonstrate a 'severe' psychological injury. This is a higher test than the 'serious' injury requirement for physical injuries and employers are likely to deny negligence.

### Why you should pursue these claims

Despite these barriers, there is now greater awareness of the extent to which mental health problems affect employees and the prevalence of stress-related injuries in certain professions. Employers benefit socially and economically by remaining aware of potentially harmful conduct and practices taking place on their watch.

By pursuing WorkCover claims, employees can encourage change throughout the workplace. While claims might not be successful, employees may gain informal recognition of their injuries through internal dispute resolution, which can be rewarding for claimants and lead to positive outcomes.

You can access more information via the medical portal on our website.

- Giorgina McCormack, Lawyer

## Developments in mesothelioma chemotherapy treatments

Chemotherapy is the most common form of treatment for mesothelioma.

The most common chemotherapy drugs used in Australia to treat mesothelioma are, or include a combination of: Cisplatin; Carboplatin; Alimta; and Gemcitabine. Alimta was the first, and is currently the only, drug listed on the Australian Government's Pharmaceutical Benefits Scheme (PBS) specifically for treating mesothelioma.

There have been a number of recent developments in the management of mesothelioma. Drug companies, the medical profession and mesothelioma advocacy groups are currently lobbying the Australian Government to recognise these developments by adding new drugs to the PBS. Unless drugs are on the PBS, the new treatment is often too cost-prohibitive for patients.

The use of immune therapies is standard practice for the treatment of melanoma and lung cancer. Keytruda is one drug on the PBS specifically for the treatment of melanoma. Despite testing still in its infancy, there has been positive human clinical trials data relating to the application of Keytruda, and other immune therapies, to mesothelioma. Australian oncologists have started to prescribe Keytruda to mesothelioma sufferers but at great expense to the patients. Support is growing for the addition of Keytruda to the PBS for the purpose of mesothelioma treatment.

A recent French trial, presented at the American Society of Clinical Oncology's annual meeting in June 2015, added the drug Avastin to standard chemotherapy treatment of mesothelioma. The French trial identified a significant improvement in the survival of mesothelioma patients

who received Avastin in combination with other standard forms of chemotherapy. Avastin is designed to stop the blood supply that feeds tumours and is administered in conjunction with chemotherapy. The drug company that designed Avastin, Roche, has taken steps to have the drug listed on the PBS.

More recent research coming out of the United Kingdom is also giving hope to mesothelioma sufferers. The researchers have found that a drug called HRX9 stopped tumour growth in mice that had human malignant mesothelioma cells implanted in them. The drug is said to knock out the key defence mechanisms of mesothelioma tumours.

- Seamus Herrick, Lawyer

# Putting patients' interests first

The best thing for patients is to have the support they need to recover. If they have concerns about their legal representation, a patient's recovery can suffer.

Here is our list of the most frequently asked questions about changing lawyers;

## I'm worried about my lawyer and their firm, can I leave?

Yes. Even though you may have signed a cost agreement with your current law firm, you can choose to terminate that relationship.

## Is it easy to leave my law firm and change lawyers?

This depends on how far progressed you are in your claim. It can be easier to change lawyers if your case has not progressed very far.

## Will I have to pay anything?

Maybe. Your cost agreement with your current law firm will include information about the cost of transferring your case to a different lawyer. It's important that you read this document carefully. Any costs you need to pay will depend on how far progressed you are in your claim. Even where you have to pay legal costs, it's often possible for an agreement to be reached where these costs are not paid until your case has been finalised with your new lawyer and you receive compensation.

## How do I get my file?

You can request that the file be given to you directly, or your new lawyer will request that your file be transferred.

## What information do I need to have to change lawyers?

We will need to know when your injury happened, what type of injury you have, whether or not you are working, what compensation you have already received and what stage your case is at. You will need a copy of the cost agreement you signed so we can look into the costs you may have to pay when transferring to our firm.

## Do I have to go through a call centre first?

No. When you call Adviceline Injury Lawyers, you speak directly with a qualified lawyer who works in personal injury law every day. Often, the lawyer who answers your call will be the one who handles your claim, unless they believe another lawyer would be better suited because of your location or their speciality in a particular area of law. Either way, you will get accurate, practical advice from industry leading solicitors from the get go, rather than a call centre.

## How soon could you see me?

When we speak to you, we will provide you with some initial advice over the phone, and aim to set up an appointment at one of our offices as soon as possible. We have offices in Epping, Melbourne CBD, Melton, Moe and Springvale and will meet you at the office that suits you best. If necessary, one of our lawyers will visit you in the hospital or come to your home to see you.

If you would like more information or to request additional copies of this information in brochure form, please contact us on (03) 9321 9988.

## Why choose Adviceline?

We have been helping people with injuries since 1972. Our lawyers are experts in their field and are passionate about protecting the rights of injured people.

When clients call Adviceline Injury Lawyers, they speak directly with a qualified lawyer who works in personal injury law every day. Often, the lawyer who answers the call will be the one who handles the claim, unless they believe another lawyer would be better suited due to the callers location or another lawyers speciality in a particular area of law. Either way, you will get accurate, practical advice from industry leading solicitors from the get go, rather than a call centre.

Adviceline is a division of Holding Redlich with offices in Melbourne, Sydney and Brisbane. Adviceline has grown with Holding Redlich, but we have ensured that we haven't become too big. Our size means we can focus on our clients and looking after their best interests.

Adviceline Injury Lawyers is a partnership based firm – we are not listed on any stock exchange.



# Our news

## New premises in Melton

We are excited to announce that construction has completed at our new and expanded premises in Melton!

Located at 43 Wallace Square, the premises are situated on the corner of Wallace Square and Palmerston Street. Partner Lisa Paul, Lawyer Genna Angelowitsch and support staff Yvonne Carullo and Kelly Bell work in the office.

With workflow in the existing Melton office continuing to increase at a rapid rate, it soon became apparent that our current premises were not big enough to accommodate the volume of files we were receiving. The new office provides for three offices and a conference room to allow us to better accommodate our clients' demands for local legal representation.

## One of us becomes a Judge!

We are proud to announce the appointment of former Adviceline Injury Lawyers Partner, Andrea Tsalamandris as a Judge of the County Court of Victoria.

For only the second time in the 150 year history of Victoria's County Court, a solicitor was appointed a Judge. This is testament to Andrea's knowledge, experience, skills, reputation and passion for justice.

We are glad that Andrea's excellence, and in turn all that we at Adviceline Injury Lawyers stand for, has been recognised in such a significant way.

Partner and head of the firm's asbestos practice, Bree Knoester, now heads up the personal injuries division, together with Partners Michael Lombard and Lisa Paul.



*Her Honour,  
Judge Tsalamandris*

## LOCATIONS

### Epping

Shop 110B,  
Pacific Epping  
Epping VIC 3076

### Melbourne

Ground Floor  
555 Bourke Street  
Melbourne VIC 3000

### Melton

43 Wallace Square  
Melton VIC 3337

### Moe

Level 1, 18-20 Kirk Street  
Moe VIC 3825

### Springvale

369C Springvale Road  
Springvale VIC 3171

## CONTACT US

T 03 9321 9988  
or **1300 MY INJURY**  
advice@alil.com.au

## Community festivals

### Springvale Lunar New Year

On Sunday 7 February 2016 we were once again proud to participate in the Springvale Lunar New Year Festival.

Presented by the City of Greater Dandenong, and in partnership with the Springvale Asian Business Association, this popular event features lion dancers, fire crackers, multicultural food stalls, an entertainment stage as well as amusement rides and attractions.

Celebrating the Year of the Monkey, our Springvale team hosted a very popular information stall and gave out bottles of water, balloons, lollies and show bags and provided free legal advice.



*From left: Lawyer, Genna Angelowitsch; Partner, Michael Lombard; Andrew Giles MP; Partner, Lisa Paul; Marketing Executive, Niki Scott and Lawyer, Deidre Petrakis at the Whittlesea Community Festival*



*From left: Lawyer, Seamus Herrick; Partner, Bree Knoester and Legal Assistant, Tran Ong at the Springvale Lunar New Year Festival*

### Whittlesea Community

On Sunday 20 March 2016 the City of Whittlesea presented their annual Community Festival in the Public Gardens of Lalor.

Celebrating the people and places of the City, the event offered a wide range of activities, cultural events, live entertainment, carnival rides, market stalls, community workshops and a big firework finale.

With more and more of our clients located in the north-west region of Melbourne, we were excited to once again support the Whittlesea Community Festival and spend quality time with members of our local community.