

Introducing Andrew Higgins, S&G Asbestos Team lawyer.

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“Like everyone in the asbestos department, I love using the law to help people. All of our clients are going through difficult times with their illnesses or with the loss of a loved one, and it means a lot to me to be able to provide them with some compensation, and more importantly, some justice”.

Andrew Higgins, S&G Asbestos Team lawyer.



Andrew is the youngest member of the asbestos department and that's a fact he's proud of. For while Andrew is only 28 years old, he has over 7 years experience in large scale litigation, principally in the areas of asbestos and tobacco.

Andrew started with Slater & Gordon as a paralegal in the tobacco department, while completing his law degree at Melbourne University. On completion of his degree Andrew worked as an Articled Clerk, where he became heavily involved in the landmark McCabe litigation. He helped

uncover crucial evidence that proved that British American Tobacco had systematically destroyed sensitive internal documents. Andrew was nominated for the Lawyers for the People Civil Justice Award (Australian Lawyers Alliance) for his work in the ground braking McCabe case. He is one of the youngest ever nominees for this award. Andrew was also sent by Slater & Gordon to London to assist lawyers from the U.S Department of Justice in the U.S Government's case against the tobacco industry.

Andrew was recently interviewed by the Herald Sun about his involvement in the historic McCabe case. He described how it felt the day Mrs McCabe became the first lung cancer victim to obtain a verdict against a tobacco company. "It was just one of those beautiful moments where it was late in the day and you just felt the legal system worked," he said.

The decision in McCabe was overturned on Appeal which was a terrible blow to the family and all those involved in the case, including Andrew. "I didn't believe the decision was legally correct and its effect was certainly unfair on the family," Andrew said.

Rather than get disheartened Andrew threw himself into asbestos litigation. He has been involved in all types of asbestos claims; for people who have mesothelioma, lung cancer and asbestosis. Now Andrew's practice is concentrated on asbestosis claims and claims on behalf of families who have loved ones that have tragically past away from asbestos related illnesses. Andrew's passion for his work in this area is widely recognised.

Andrew also has impressive academic credentials. He has completed a Masters in Law at Oxford University, England, with first class honours.

"Oxford was an amazing experience," Andrew said. "The professors and students there are very smart. While I'm proud of my results, the thing I'm most proud of is what I'm doing now with what I learnt. Most Oxford Graduates go to work for big firms representing big corporations. I'm doing something much more important – helping victims of asbestos related diseases."



International Tobacco Whistleblower visits Australia



Jeffrey Wigand, former head of research of the world's second biggest tobacco company, immortalised as the 'Insider' in the film starring Russell Crowe, toured Australia to help promote anti-smoking efforts in November last year.

The Jeffrey Wigand visit was arranged and sponsored by Slater & Gordon. Slater & Gordon first worked with Dr Wigand during the landmark McCabe case, when Dr Wigand volunteered to give evidence against his former employers, the British American Tobacco Group, on Rolah McCabe's behalf.

A very special and personal part of this trip for Dr Wigand was to pay tribute to Australia's very own 'Insider', Fred Gulson, a former lawyer with WD & HO Wills. Mr Gulson voluntarily came forward to testify in the McCabe case, admitting on oath that Wills had deliberately destroyed documents to hide what it knew about the dangers of smoking and nicotine addiction.

Dr Wigand presented Mr Gulson with an award from a coalition of health groups at the third annual tobacco control conference in Sydney. Dr Wigand said Mr Gulson deserved great credit for deciding to be a 'truth teller', despite the tobacco industry's threats and intimidation against him. Dr Wigand had also famously been threatened by the industry, at one stage he even found a bullet in his letter box, and was subject to an extraordinary smear campaign. Dr Wigand also paid tribute to Mr Gulson's family, for standing by him through such difficult times. Mr Gulson's wife Sally, and three of their four children were able to attend the ceremony.

The Wigand Series

Slater & Gordon also organised a series of seminars held by Dr Wigand for leading doctors and social workers in the area of lung cancer and respiratory medicine. The meetings in Melbourne, Sydney and Brisbane were a tremendous success and explored ways of controlling the lung cancer epidemic, including through litigation. Research was presented at the Seminars by Professor David Hill, of the Victorian Cancer Council. He identified that awareness of these important health issues increases dramatically when victims make legal claims.

The problem of asbestos was also discussed in the seminars, because asbestos is a well known cause of lung cancers. There is also a synergistic effect between tobacco and asbestos, which means that when these substances are combined, they dramatically increase the risk of lung cancer. That is why smokers with lung cancer may still have an asbestos claim even if they have only been exposed to asbestos for a short period.

At the conclusion of his tour, Dr Wigand took some time to pursue another one of his passions; fly fishing with Slater & Gordon's Senior Partner, Peter Gordon. That too was a success although how big the fish were is still being debated.

For further advice about Asbestos, contact Slater & Gordon on 1800 555 615 or visit our website www.slatergordon.com.au



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Tasmanian victims and their families have won the right to claim damages for pain and suffering.

The Tasmanian Parliament has passed legislation ensuring that where the victim of a dust disease dies before their legal case is complete, the Estate may continue the claim for damages for pain and suffering, providing the case was started in the sufferer's life time.

The Administration and Probate Act was amended late last year, in order to bring Tasmanian law into line with other States. The Bill received bipartisan support as it went through Parliament.

The amendment is important for several reasons. It ensures that Defendants in asbestos and other dust disease cases are not rewarded for delaying legal settlements, it removes the need for client and lawyer to race against time just to preserve basic legal rights, and it protects what is often the most significant part of a damages claim for the benefit of those left behind.

Tasmania has a growing problem with asbestos related diseases, in part due to the presence over many years of Australia's third largest asbestos manufacturer, Goliath Portland Cement Co Ltd, located at Railton, North West Tasmania. This asbestos manufacturer has employed many Tasmanians over the years and also supplied asbestos cement sheet to many businesses on the island. Other major users of asbestos materials included the Australian Pulp and Paper Mill, the State Government, and Pasmenco (now Zinifex Ltd).

Slater & Gordon client Christine Whiteley campaigned for two and a half years for the legal amendments, following the death of her husband Tony from mesothelioma in July 2003, aged 53. Christine particularly wanted to ensure that damages payments would include some recognition of what the asbestos disease sufferer had gone through, even after their death. In the course of her campaign, she dealt with MPs from all sides of politics, met with former Attorney General, Judy Jackson, enlisted the help of Unions, and met with and talked to other families whose lives had been touched by asbestos related diseases.

Whilst mesothelioma, lung cancer and asbestosis continue to be diagnosed and to cause premature death, the legal recognition of what an asbestos disease sufferer has endured as a result of someone else's negligence can go a small way towards assisting friends and family cope with the death of their loved ones.

A Victim Support Group for South Australia

'The Victim is our priority'

Asbestos Diseases Society of South Australia (ADSSA) is a full time advisory service providing 24 hour information, via its mobile service hotline. ADSSA was officially opened on Wednesday, 7 December 2005, by the Honourable Michael Wright, Attorney General of the State of South Australia. Many members and friends joined ADSSA to celebrate this important event.

ADSSA was founded in June 2005, by Kay Tidswell, CEO of ADSSA. Kay lost her much loved partner of 16 years, Russ Fleming, to mesothelioma, on 26 June 2003.

Kay has first-hand knowledge and experience of being a carer and knowing what is involved in looking after a person who has had an asbestos-related disease. Kay sought to start ADSSA to share this information with other victims in South Australia. In doing so she has created a wealth of information about asbestos-related diseases and asbestos for anyone who has been diagnosed with an asbestos condition or has been exposed to asbestos.

Most importantly, ADSSA hosts a victim support group facilitated by a Social Worker, Penny Jacomos. The group meets every third Thursday of the month at its Hurtle

Square office in Adelaide, and provides a forum where members can meet with peers.

ADSSA also provides a home and hospital visiting service for victims of asbestos-related diseases and their families. It offers loss and grief counselling, referral to community services and assessment of clients' needs.

The President of ADSSA, Jack Watkins has a long history of lobbying for the rights of those who have been exposed to asbestos as well as eliminating the use of asbestos in South Australia.

Freecall hotline 1800 157 540



Kay Tidswell, Jack Watkins and Penny Jacomos

CASE 1

Amended damages claim results in 'just' compensation.

Slater & Gordon recently acted for Mr Bruce Stafford a very well known and highly respected Ballarat commercial real estate agent who developed mesothelioma in July 2003.

The Bruce Stafford case

Mr Stafford had been exposed to asbestos about 30 years ago when he cut just a few asbestos cement sheets with a hand saw, making wool bins at his father's farm in Hexham. Although his exposure to asbestos appears trivial, Slater & Gordon are acting for more and more clients who develop mesothelioma through very minimal asbestos exposure. It is clear that any exposure to asbestos is a risk.

Just before the trial of the action, James Hardie and Wunderlich both admitted liability for negligence in exposing Mr Stafford to the asbestos; the cause of his mesothelioma. However, the major concern in the running of Mr Stafford's case was the fact that the Victorian Government in its Tort Reform of 2003, had capped the level of compensation he could receive for his loss of income.

Mr Stafford, as a commercial real estate agent and property developer, earned significantly more than the cap the Government had placed on persons claiming for loss of income. Just prior to the trial commencing James Hardie and Wunderlich indicated that they would take advantage of the Victorian Government Tort Reform, the effect of which would significantly reduce his compensation.

As a result, Slater & Gordon amended the damages claim to include a claim under the Federal Trade Practices Act, arguing against the product manufacturers that they knew of the risk of handling their asbestos products, but failed to warn people such as Mr Stafford against using the product. In failing to do so, the product manufacturers engaged in conduct that was 'misleading and deceptive.' The advantage for Mr Stafford in amending the claim in this way was that the Trade Practices Act, did not limit the compensation that persons such as Mr Stafford can claim, and ultimately Mr Stafford was able to resolve his claim taking into account his actual loss of income.

"Unfortunately, as a result of the Federal Government recently amending the Trade Practices Act to also limit such economic loss claims, other asbestos disease sufferers will not receive compensation which covers their full loss of income" said Mr Stafford's lawyer, Suzanne Sandford.

Mr Stafford was most concerned about the effect of the economic loss cap on other asbestos disease sufferers. Together with Mr Stafford, ADSVIC and its members, Slater & Gordon has raised this issue with the Victorian Government. Sadly, Mr Stafford recently lost his battle with mesothelioma, but we will continue the fight to ensure all asbestos victims receive their proper compensation.

CASE 2

Great win promotes future justice for tobacco smoking asbestos victims.

Companies can no longer avoid paying just compensation by blaming asbestos-related diseases on a victim's exposure to tobacco smoking.

Legal recognition of the synergistic effect of asbestos exposure and tobacco smoking in lung cancer patients was highlighted in a recent settlement secured by Slater & Gordon's Claire Setches and a widow on behalf of her late husband Michael Glavocih.

This important case study explores the steps taken by Claire and Michael Glavocih's widow that lead to their monumental win.

The Michael Glavocih case

Mr Glavocih was a life long smoker having commenced smoking at the age of 21 years old in 1961, and smoked an average of forty to sixty cigarettes per day until 1999, five years before his diagnosis of lung cancer. Mr Glavocih was also exposed to asbestos whilst working as a labourer and truck driver for a number of different employers.

Due to the aggressive spreading of his lung cancer, Slater & Gordon facilitated a bedside hearing before the cancer took Mr Glavocih's life, in February 2005. At his time of death Mr Glavocih showed signs of probable asbestosis, bilateral calcified pleural plaques, emphysema and primary carcinoma of the tonsil.

Mr Glavocih's evidence was essential in protecting his legal rights after his death. His evidence ensured Slater & Gordon could secure a settlement of his claim that would benefit his wife and family.

The settlement recognised that asbestos exposure and tobacco smoking interact multiplicatively to cause lung cancer. Slater & Gordon called on expert evidence from a specialist in addiction medicine, who noted that exposure to asbestos doubled his risk of developing lung cancer due to smoking.

"In the case of an asbestos exposed smoker, expert evidence supports the notion that asbestosis is not a necessary prerequisite for attributing lung cancer to asbestos exposure. Evidence that a victim began smoking at a young age and became addicted before the issuing of warnings assists in ensuring asbestos companies do not avoid paying just compensation by blaming asbestos-related diseases on a victim's exposure to tobacco smoking", Claire said.

This means that a history of smoking will not always dramatically reduce the damages payable to a lung cancer victim who was also exposed to asbestos.