



**ASBESTOS VICTIMS ASSOCIATION**  
**S.A. INC** Est. 2000

# Newsletter

OCTOBER 2012

*"There For Our Members Whenever and Wherever They Need Us"*

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Welcome to this edition of our newsletter.

It is hard to believe it's October already—just don't know where the time goes.

### THANK YOU

From a personal point I would like to thank everyone for more than a hundred messages phone calls and visits I received recently. **I would also like to give my thanks to the professional people who became involved, from the operator on 000 who kept talking until the ambulance arrived, to the Para Medics, and the emergency, and respiratory teams at the Lyell McEwin Hospital.**

**My thanks to everyone of you for your professional and caring efforts (Terry Miller AVA President)**

### JUST WHAT IS GOING ON ???

In our last newsletter we told you of the **TOXIC WASTELAND DISGRACE** where a licensed company illegally storing asbestos waste on it's property and was discovered by the CFMEU. We are aware that investigations and some clean up is occurring, but what else is really happening?.

Next we hear of illegal dumping of asbestos at Gillman again discovered by a CFMEU official. This time the area that was used to dump is a popular spot for trail bike riders and others, so exposure to asbestos fibre is more than likely to have occurred, clearly these stupid people dumping this stuff have absolutely no regard for the lives of others even if they include CHILDREN

Next we hear about the house explosion that occurred about a year ago at Holden Hill, residents are furious that asbestos still hasn't been cleaned up, but the local Tea Tree Gully Council says it's powerless to act. Initial tests carried out by the Tea Tree Gully Council found asbestos levels on the site were five times lower than what's considered dangerous. The Council doesn't believe there's any immediate risk. Yet World Asbestos Health Experts say the is NO SAFE LEVEL of exposure to asbestos.

Now we have "**ACCC issues alert about asbestos in car gaskets**" The Australian Competition and Consumer Commission is monitoring a recall of approximately 23,000 Great Wall and Chery motor vehicles with engine and exhaust gaskets containing asbestos. Amongst the recall orders was this gem  
To place a "**STICKER**" in the engine bay of all the vehicles" this seems ridiculous to us because over the years as the sticker gathers grease and dirt who is going to know that the gaskets in the engine and exhaust contain asbestos

To simply attach a "**tag**" to a vehicle does not guarantee that exposure to asbestos will not occur

There is no safe level of exposure to asbestos  
Local manufacturers would not escape penalty so why should importers be treated differently?

We will keep an eye on these issues.

### Something to Ponder?

How come SUPERMAN could stop bullets with his chest, but always ducked when someone threw a gun at him?

**FROM AVA'S LEGAL ADVISOR ANNIE HOFFMAN****BHP Billiton Limited v Parker**

On 18 June 2012 the Full Court of the Supreme Court handed down a land mark decision in favour of former BHP Whyalla shipyard worker, William Parker. The Supreme Court upheld a Judgment made by Judge Lovell of the District Court in which he found BHP liable in negligence and awarded Mr Parker damages including exemplary damages, the first award ever made under the *Dust Diseases Act 2005* (SA).

Mr Parker worked at the Whyalla Shipyards as a shipwright. In 1971 and 1972 Mr Parker was sent to the 'fit out' wharf whilst on a period of light duties. During this period Mr Parker worked in the vicinity of ladders installing and spraying asbestos insulation on the ships at the fit out wharf. Mr Parker was not given a mask to wear nor warned of the dangers of exposure to asbestos. Years later, in 2001 Mr Parker developed asbestosis.

The Supreme Court upheld the finding that by 1971 BHP knew of the dangers of exposure to asbestos and yet did nothing to protect Mr Parker from this danger. The Court found that BHP had to either test for asbestos in the air or provide some precautionary measures such as a mask and an industrial vacuum cleaner in response to the danger that asbestos posed at its shipyard.

BHP didn't argue with the finding that Mr Parker suffered from the disease asbestosis, however, they did argue that the exposure to asbestos that Mr Parker suffered at BHP didn't cause this condition. Mr Parker had suffered some exposure to asbestos at a UK shipyard before he immigrated to Australia. The Supreme Court found that the exposure to asbestos that Mr Parker suffered in Whyalla was not insignificant and had contributed to his condition.

The Full Court upheld Mr Parker's award for compensatory damages and in addition, upheld the award made for exemplary damages in the sum of \$20,000.

The award of exemplary damages was the first made under the *Dust Diseases Act*. Exemplary damages are awarded to punish a defendant for their conduct. Section 9(2) of the *Dust Diseases Act* allows a plaintiff to make a claim for exemplary damages where it can be proved that the defendant knew that the plaintiff was at risk of exposure to asbestos dust and also knew at the time of the plaintiff's exposure that exposure to asbestos dust could result in a dust disease. The Supreme Court has confirmed that by 1971 BHP knew that exposure to asbestos dust could result in a dust disease. In considering the award of exemplary damages made by Judge Lovell the Court noted, "Mr Parker's asbestosis cannot be said to be the result of a casual act of negligence, or an isolated breach of duty. Instead it can be said to have resulted from the systemic failure by BHP to make its workplace safe."

The Judgment will have an affect on future asbestos claims against BHP as well as other asbestos claims made in SA generally.

**WHYALLA SUB BRANCH****John Arthur reports**

Keep in mind our memorial service on FRIDAY the 30TH of November at 11 am held at the Mount Laura Homestead in Ekblom Street.

If you have lost a family member or friend due to asbestos and would like a named cross that you can place flowers at the end of the service please drop in to 87 Essington Lewis Ave, or call John on 86453322 after hours

Call in and try our home made jams and pickles. New product, Strawberry jam going quick

**Meeting Dates:**

Third Thursday of each month

**Venue:**

87 Essington Lewis Ave, Whyalla. Phone: 8645 0555

**PORT AUGUSTA SUB BRANCH****Geoff Maul reports**

Hopefully you receive this in time Geoff and Colleen will have a stand at **Port Augusta Positive Ageing Expo** 11/10/2012 10am, Free Cooina Hall, Flinders Terrace, Port Augusta . The AVA support group will have information and assistance for anyone who needs it.

We invite anyone, who would like attend, to come along to our monthly meetings held on the First Friday of each month.

**Venue:**

Port Augusta Bowling Club, Corner Marryatt & Jervois Street. You can contact Geoff on 8642 2884.



## KATZ\_KORNER

### Second Asbestos Summit held in Sydney

Asbestos Victims Association attended the second Asbestos Summit in the first week of September along with other groups and unions from around Australia. This conference came about after the Asbestos Management Review had finalised its recommendations. The review committee has come up with 12 recommendations these can be viewed at

<http://www.deewr.gov.au/WorkplaceRelations/Policies/AMR/Pages/AMRReport.aspx>.

At the second Asbestos Summit held in Sydney today, Minister for Employment and Workplace Relations Bill Shorten announced the Government's response to the comprehensive Asbestos Management Review (commissioned in October 2010). "Today, the Australian Government declares its commitment to establishing an Office of Asbestos Safety which will be tasked with developing a national strategic plan as recommended by the Review, by 1 July 2013," Mr. Shorten said.

"Australia has one of the highest rates of asbestos related disease in the world. Our response to this Review represents our best chance to work together to eliminate asbestos-related disease in Australia." "The creation of the Office of Asbestos Safety is a vital first step in that process. It will set out a road map for improving our handling of asbestos and look at the practicalities of implementing the recommendations of the Review."

Mr. Shorten also announced a number of research projects on management and awareness of asbestos will commence in advance of the agency's establishment. The research will include examining current infrastructure for the disposal of asbestos products, and a comprehensive study of community awareness of and attitudes to asbestos.

"This research will underpin the future work of the office, and provide them with a head start on what I anticipate will be a considerable workload. The research that will be undertaken is consistent with the recommendations made by the review and will inform the priorities of the agency," Mr. Shorten said.

#### **New test**

A team at the University of NSW has developed a breath test using an electronic nose to help diagnose the disease mesothelioma, which is caused by exposure to asbestos. Study leader Associate Professor Deborah Yates said the device was designed to distinguish between benign and malignant disease.

Associate Professor Deborah Yates says the small study had a high rate of accuracy

AVA wishes to thank **PETER LEHMANN WINES** for their donation of a magnum of 2004 Stonewell Shiraz which we used as a prize draw to meet with mesothelioma experts at the recent lung conference in Adelaide the wine was won by DR Steven Kao from the Asbestos Disease Research Institute in NSW.

Finally we must acknowledge the terrific work being done by our extremely hard working volunteers **PETER & JEAN BAXTER** they have been travelling and setting up our stands at all the country shows and Field days putting in long hours with us talking to people and getting the message about awareness out.

### DATES TO REMEMBER



### YOUR SOCIAL MORNINGS

These mornings are held in our rooms at Level 3 60 Waymouth Street Adelaide on the **SECOND** Wednesday of every month, starting at 10am, but early birds are welcome, and you can stay as long or as little as suits you.

They are not formal meetings, so that gives each of you an opportunity to meet with and talk to others who maybe in a similar situation.

Remember you are not alone.

### Dates for 2012 Social Mornings

**October 10th, November 14th, December 12th.**





## PAM's CORNER

Over the last three months AVA's committee and volunteers have been kept very busy attending a number of events - trying to raise awareness about the dangers of exposure to asbestos in any form. We have been to agricultural shows, community groups, field days, expos and conferences.

At least 1000 bags of information have been given out to interested persons all around South Australia. Our photo display and samples of asbestos containing material always create a lot of interest and lead to many questions.



AVA Stand at Gawler Show 2012

If you would like to have an information session for your community group or local event, please contact us at AVA and we will happily arrange it

There is certainly a growing awareness of asbestos problems, with the most common queries being:

“How can I know if there's asbestos in my home?” “How should I deal with asbestos I've found?”

“How do I dispose of the asbestos?” “What should I do if I've been exposed to asbestos?”

At the Lung Foundation 3-day conference in Adelaide's Convention Centre last month, we were able to speak to a variety of medical practitioners in person and we gave out information packs to anyone attending sessions relating to asbestos diseases.

### Please Put This IMPORTANT Date in Your Diary NOW

#### **Asbestos Victims Memorial Day**

**DATE: Friday November 30th 2012**

**VENUE: Pitman Park SALISBURY**

**TIME: 10:30 am to 11:30 am**

**Speakers TBA**



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