



Report on a personal injury conference

By Andrew Stone

The inaugural Bar Association common law CPD programme took place at the Westin Sydney on Saturday 7 February 2009. Although predictions as to the demise of the common law bar become even more frequent, over 80 barristers gave up a Saturday to polish their professional skills and earn CPD points.

Since the late 1990s the legislative regimes governing various types of common law claims have grown substantially more complex, including changes to both the manner of litigating and method of assessing motor accident claims, industrial accident cases and medical negligence. The *Civil Liability Act 2002* endeavoured to codify (at least in part) the general common law both as to liability and damages. There have been changes to asbestos litigation. Even the Commonwealth joined in with amendments to the Trade Practices Act.

The speakers' programme for the day reflected the diversity of challenges now facing the common law practitioner.

Current and former members of the judiciary kindly agreed to speak. The former president of the Court of Appeal, Justice Mason, reflected upon changes in torts law during his period on the bench with the added perspective of his more recent academic pursuits. Justice Beazley spoke on Calderbank offers in the Court of Appeal with the aim of improving the quality of applications before the court, hopefully to be matched by a commensurate decrease in time-consuming costs judgements. Justice Harrison ventured as far back as *Donaghue v Stevenson* before addressing more recent developments.

David Russell SC reviewed recent issues in dust diseases with a particular emphasis on domestic assistance claims and asbestos litigation. Steven Campbell SC undertook the hardest task of the day in addressing Section 151Z of the Workers Compensation Act – a provision that has confounded advocates and the judiciary alike.

Philip Mahony SC and Henry Silvester presented a thoughtful paper on professional liability since the introduction of the *Civil Liability Act 2002*. Mark Robinson presented a terrific seminar on administrative law for personal injury lawyers. Since administrative decision making replaced the role of the court in determining substantial aspects of motor accident and workers' compensation claims, a greater familiarity with administrative law procedures has become an absolute must for common law practitioners.

The afternoon programme continued to delve into the new and technical. Andrew Stone (assisted by Dr David Bowers) spoke on AMA IV and the medical assessment guidelines. Margaret Holz explained the operation of the new Lifetime Care and Support

Scheme. Andrew Morrison SC presented a detailed and highly practical paper reviewing significant recent cases.

The day concluded with an ethics hypothetical from Jeremy Gormly SC and Andrew Stone. The ethical dilemmas postulated created a lively debate and the opportunity for audience participation.

Feedback from participants suggested that the day was an outstanding success with demand for a similar CPD event next year.

Special thanks go to Chris, Jo and Katie from the Bar Association's Professional Development Department who organised speakers, registration, papers and the excellent venue. Bar Association President Anna Katzmann SC and the chair of the Common Law Committee, Ross Letherbarrow SC shared the chairing duties and added their considered commentary.

In addition to the educational benefits the day provided one further bonus. In the not so distant past large portions of the common law bar congregated on a daily basis in the John Maddison Tower, whether in the reserve list in Court 15B, on level 12 for arbitrations, in the Workers Compensation Court, or the coffee shop. With the substantial reduction in litigation and the development of new forums for determining motor accident and workers' compensation claims some collegiality is lost – we just don't see as much of each other. One of the major feedback points from the day was that it was good to catch up with colleagues during the breaks in the programme. Planning is now underway to organise a dinner for the common law bar in the second half of the year.

Verbatim

Q: So you have nominated two occasions there. You had your first in Gosford Hospital, is that right?

A: Yeah, I've been to Gosford four times all up.

Q: Which hospital at Gosford?

A: The Gosford Hospital (witness indicated).

Q: Which one?

A: There's only one Gosford Hospital that I know.

Q: What's the name of that?

A: Gosford Hospital.