

APLA Exchange

Mine safety

We act for a client who was injured while working underground in a mine under the direction of his supervisor. In order to establish negligence on the part of the mine management we require the services of a mine safety inspector/expert. We would want this expert to be able to provide preliminary advice on the standard of safety and supervision provided at the mine at the time of the accident together with assessment of the system of work adopted for performance of the task which led to the injury, and also be able to give evidence in Darwin should the matter go to trial.

If you are able to provide any information please contact **Jim Richards** at Parishes, GPO Box 4125 Darwin NT 0801. **Phone** 08 8980 1891, **fax** 08 8981 1897, **email** jrichards@legalnet.net.au

Anti-malaria drug

I would be very interested to hear from anyone who has been involved in claims relating to Lariam. Lariam is an anti-malaria prophylactic - chemically called mefloquine - often prescribed

for visitors to East Africa, parts of Southeast Asia and other areas where there are strains of malaria resistant to older drugs such as chloroquine. Lariam is manufactured by Hoffmann-LaRoche, the Swiss pharmaceutical company. Lariam can produce serious neuro-psychiatric side effects, the actual incidence of which seems to be much higher than the manufacturers claim.

If you have any information on Lariam, please contact **Roger Chapman**, of Johnston Lawrence, Wellington, NZ by **email** roger@johnlaw.co.nz, by **fax** 64+4+473 4673 or **phone** 64+4+472 0940.

Go-kart accident

We are acting for a client who suffered an injury as a result of a go-karting accident. The go-kart did not have a roll bar and the track had metal barricades only. We would appreciate information from APLA members on any similar claims.

Please contact: **Paul Simon**, Macpherson & Kelley, DX 17501 Dandenong. **Phone** 03 9794 2620 or **fax** 03 9793 4462.

APLA Exchange gives APLA members a chance to share information on special issues or products relevant to their litigation.

If you would like to submit a request to **APLA Exchange**, contact Tanya Simpson at APLA on **phone** 02 9415 4233.

Your query is guaranteed to be read and considered by your colleagues!

No coffee breaks for McDonald's

The most widely circulated recent anecdote purportedly demonstrating that the tort system in the USA is out of control was the jury award of \$2.9 million to a woman who was burned by the coffee she bought at McDonald's. The story has been the butt of jokes by the Tonight Show's Jay Leno, but the facts suggest that justice was served.

The McDonald's coffee suit is possibly the most spectacular example of corporate spin control in history. The actual facts of the suit are considerably less amusing than people have been led to think. Below is a synopsis of the case. An extended, and even more infuriating description of the case is found in "No Contest," by Ralph Nader and Wesley Smith. Note that after hearing from the plaintiff in the suit, Jay Leno, apologized for his ignorant jokes about the case and has refrained from any

more jokes at her expense.

Consumer advocate Ralph Nader described the relevant facts in testimony before the House Judiciary committee in February 1995. What follows are excerpts from that testimony:

In February 1992, while sitting in a non moving car, 80 year old Sheila Liebeck suffered third degree burns over six percent of her body, including her genital and groin areas, after a cup of hot coffee she was holding spilled into her lap. As a result, she was hospitalized for 8 days and underwent skin grafting. Ms. Liebeck sought to settle her claim for a mere \$20,000 but McDonald's refused.

During extensive discovery Ms Liebeck's attorney discovered that more than 700 claims had been filed against McDonald's by people burned by its coffee

between 1982 and 1992. In addition, McDonald's admitted that it kept its coffee at temperatures almost 40°F hotter than most food establishments. The jury awarded Liebeck \$US200,000 in compensatory damages, which was reduced to \$US160,000 because the jury found Ms Liebeck 20 percent at fault for the spill. The jury also awarded Ms Liebeck \$US2.7 million in punitive damages, the equivalent of 2 day's of McDonald's coffee sales. The trial court subsequently reduced the punitive award to \$US480,000, three times the compensatory damages.

Notwithstanding the hysteria surrounding the McDonald's coffee case, the facts demonstrate that punitive damage awards are not awarded arbitrarily or without just cause, and that awards are subject to review and reduction by trial judges. ■