

Forensic psychologist speaks to forensic engineers

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Recently, Dr Don Thompson, a Forensic Psychologist, spoke to the Forensic Engineering Association at the Western Australian Division of the Institution of Engineers.

Dr Don Thompson is the foundation professor of psychology at Edith Cowan University and is a barrister at the Victorian Bar. He has appeared as an expert witness in many trials.

Of particular relevance to engineers is Dr Thompson's observations on the reliability of witnesses and the need to provide documentation early when engineering projects become controversial.

Forensic psychology is concerned with the study and management of the behaviour of persons involved in the legal system. Thus it is concerned with the detection, identification and management of offenders, with victim support, with witnesses,

jurors, judges, and the system itself.

The focus of Dr Thompson's forensic psychology research over the past 25 years has been the relationship between the trial process and the participants in that process. The major finding from these studies is that the trial process is based on assumptions about human abilities which cannot be supported.

It is assumed that memory difficulties of very young eyewitnesses are cured when such eyewitnesses testify many years later when they are teenagers or adults. This assumption is invalid. It is assumed, incorrectly, that better evidence is obtained by restricting to one the number of interviews of child witnesses.

Other invalid assumptions are that jurors are able to determine the guilt or otherwise of the accused on the facts, regardless of the complexity of the evidence and without access to court transcripts, that

jurors can disregard inadmissible evidence, that jurors are able to comprehend intricate instructions by the judge, for example, self-defence instructions.

The conclusion drawn is that the principles of human engineering are applicable to the trial process, namely, the trial process should be designed to match the capacity of the participants.

The lesson to the engineer is clear. Memory can be a faulty faculty and the possibility for errors in human communication are great. Whenever there is any question or controversy in any project, it is essential that all matters be clearly documented and communicated. ■

The Forensic Engineering Association is pursuing Learned Society status. Interested parties can contact **Jack Appgar**, Secretary, on **phone** (08) 9246 1600 or **fax** (08) 9447 7231.

Lawyers seek \$600,000 to launch smoking class action

By Legal writer JANET FIFE-YEOMANS

A national group of lawyers planning an all-out assault on the tobacco industry's billions has called on the Federal Government to reverse its decision to refuse legal aid for their class action from a special fund earmarked for cases of public interest.

The unprecedented Federal Court class action on behalf of all smokers under the age of 21 - about 500,000 people - would need about \$600,000 to get off the ground, the Australian Plaintiff Lawyers Association and Action on Smoking and Health said yesterday.

The two groups said they were united in their concern at the Government's refusal to help while collecting more than \$4 billion a year in revenue from the tobacco industry yet only putting back around \$20 million in quit-smoking campaigns.

The class action, which would be the biggest in Australian history, is just part of a three-pronged attack proposed by APLA, a national association of lawyers who act for victims in personal injury and public interest litigation. They have also urged lawyers to

work for clients for free to bring actions in small claims tribunals across the country claiming the costs of quitting smoking from Australia's three tobacco giants, Philip Morris, WD and HO Wills and Rothmans.

The third part of their statutory is a proposal to set up a specialist tribunal hearing only claims by people affected either directly or indirectly by smoking to be run along the same lines as the fast-tracked NSW Dust Disease Tribunal.

The campaign comes on the back of the multi-million dollar settlement in the US involving tobacco company the Liggett Group, maker of Chesterfields, which has publicly acknowledged cigarettes cause cancer.

NSW APLA president Catherine Henry said APLA would be pressing for both federal and State government support for their strategy, aimed at making the tobacco industry pay.

She said much of Australia's impressive record in the campaign against smoking was attributed to legal actions. The landmark 1992 case of a non-smoker who successfully sued

her employer, the Department of Health, after she developed emphysema at work led to workplace smoking bans.

In the world's first passive smoking ruling, the Australian Federal Full Court, five years ago, found a Tobacco Institute advertisement that passive smoking was not harmful to health was misleading and deceptive.

ASH executive director Anne Jones said funding the class action would be in the public interest because it would force the Australian tobacco industry to reveal documents relating to its conduct over the past 40 years.

It would also focus on an entire generation of young people in an effort to break the cycle of youth addiction.

The lawyers and ASH have asked the Federal Attorney General's Department to reconsider its funding refusal. The Government has set aside \$5.3 million in its public interest legal aid fund for the current financial year.

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