

New claims against CSR in Gympie - Finding the right piece in the chemical puzzle

Judy Teizel, Brisbane

Dealing with chemical injuries cases is always difficult in that there are so many chemicals in our environment.

The first thing you must do is isolate the particular chemical causing the symptoms your client has and locate the source of that chemical. This is particularly so in environmental cases.

One case in which our firm is involved is a good example of this.

For more than a year the Gympie Times ran articles with headlines such as "ARSENIC CLAIMS GO UNDER MICROSCOPE" and "ARSENIC FEARS SPARK URGENT WATER TESTING".

Another article in the Weekly Observer in Gympie read "ARSENIC LEVELS FIFTEEN TIMES LIMIT FOUND IN PRIVATE DAM WATER".

Gympie is a small mining town two hours north of Brisbane. In the late 1800's the town thrived on the gold mining in the area.

It was therefore no surprise that there were high levels of arsenic in the Gympie area, as this is a by-product of gold mining. There are, in fact, still gold mines in Gympie. The concerns were first raised when children at the Monkland School in Gympie began exhibiting symptoms such as nosebleeds, headaches and nausea, asthma, skin rashes and behavioural problems.

This seemed to be a major cause for concern for the parents and local resi-

dents. Across the road from the school is the Eldorado gold mine. There are two other gold mines close by.

Parents and children had also noticed, at times, a lot of smoke coming from the CSR Timber Products plant which produces chipboard. This factory is approximately 150 metres from the school on a small hill that overlooks the school.

The other piece to the puzzle was that for the twenty years that the CSR plant had existed in Gympie the residents told us that the plant had been dumping waste chipboard into valleys on farms in the local area with the property owners' consent. So much had been dumped on one property that the residents believed it had altered the line of the valley. The main problem with this waste was that when it wasn't blowing dust over everything it was self combusting and causing thick smoke to envelope the area. A number of the residents complaining of symptoms in themselves and their children lived on allotments backing on to these dump sites. Some of the dump sites were not very far from the CSR factory.

For the major part however, most of the people seem to be worried about the arsenic levels. Our firm travelled up to see the concerned parents and residents who were quick to tell us about the arsenic. We then took a drive past the CSR factory. Continued on page 4

APLA victory in SA

Angela Bentley, Adelaide

The bid of the South Australian Government to increase the period of significant impairment for motor vehicle accident victims to bring claims for pain and suffering from one week to a period of six months of serious and significant impairment has been defeated. (Ed: see *Plaintiff* 27, p.47)

The South Australian Branch of APLA mounted a media and political lobbying campaign to highlight the injustice of the proposed amendment which was introduced into State Parliament on June 4 1998 without any forewarning.

The Motor Accident Commission spent approximately \$200,000 lobbying in favour of the proposal, including \$100,000 in media consultants. APLA resisted the proposal expending less than \$10,000 excluding the cost of members' time.

On August 27 1998 a Joint Conference of both Houses threw out the proposed amendment.

South Australian members are grateful for the support of the APLA National Council and for the help we were given by Simon McGregor, APLA's National Policy Manager (see page 26). ■

New claims against CSR in Gympie - Finding the right piece in the chemical puzzle

continued from page 1

...There was also a duck pond across from the school which had been cleaned out as it has been previously so polluted with arsenic that people were told not to kill and eat the ducks off the pond due to the high level of arsenic content.

We collected all the data that we could on that trip to Gympie.

We came back to analyse the problem. It was a difficult one. There were so many different chemicals from so many different sources. We engaged the services of a scientist who could provide us with a scientific assessment of the problem, looking at the potential toxins, the health issues and a strategy for further progress of the claim.

This became an invaluable plan for the whole case. As it turned out, arsenic was just a red herring. The worst thing seemed to be the bi-products of incineration of waste particle board especially on the properties surrounding the residents.

The problem with the waste was that it was of such a nature that it would self combust and burn for weeks on end. When particle board wastes are burnt at low temperatures in a reducing environment a range of toxic gases can be produced. One such toxic gas is cyanide. We learned that to dispose of particle board waste it has to be incinerated at high temperatures. Therefore, smoke from fires in the areas where the particle board waste was dumped had been "poisoning" the residents and their children. They complained of nausea, diarrhea, asthma and some other ailments.

Also, formaldehyde based resin is used in the manufacture of particle board at CSR Timber Products plant at Gympie. This is shown in their material safety data sheets.

If one inhales formaldehyde vapour it can cause asthma attacks, burning eyes, menstrual disorders, depression and cancer. The other toxin our expert found was boron which in excessive doses can cause



digestive difficulties and toxicity to the central nervous system. Interestingly enough, one of our clients had developed multiple sclerosis and had had hair samples taken which showed an extremely high level of boron. This was right on point.

As it turned out, the major problem we eventually found was the spontaneous combustion of material which had been dumped. We then had the same scientist prepare a literature review of particle board and its combustion products in order to provide evidence for the claims in the scientific assessment.

We now have a complete strategy for progressing our claim. In order to obtain this we had to take all the evidence, present it to the scientist, take the scientist out into the field, have him speak to the people and read the documentation including documentation from the Department of Environment which had been obtained by the concerned residents.

Chemical cases are not the easiest cases to pursue. However, if you are taking action against companies such as CSR you must use your resources wisely as any plaintiff lawyer would know. Therefore there is no time to waste in looking at things you can not possibly know. We had no idea as to what chemicals were affecting

the people and where the toxins were coming from. However, we were able to wade through this in a short space of time with the assistance of an expert in the field. We could then proceed with the claim on the basis that we knew exactly where we were going.

This claim is still in its early stages. It is also one on which I will speak as a member of the Chemical Injuries Special Interest Group at the Australian Plaintiff Lawyers Association national conference at Hamilton Island. ■

Judy Teitzel is an Associate at Shine Roche McGowan,
phone 07 3229 6777 fax 07 3229 1999

Notice of AGM

The Annual General Meeting of the
Australian Plaintiff Lawyers Association will
be held at Hamilton Island on Sunday,
October 18, 1998 at 10.50am.

Enquiries:
John Peacock, 02 9415 4233