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Personal Injury Law Conference

Achieving winning outcomes
in personal injury cases

10 - 12 November 2008
Swissôtel Sydney

Don't miss this opportunity to:

- Hear the **courts view on optimal case presentation** and preparation
- Discover the impact of the changes to the ***Motor Accidents Act*** and ***Claims Assessment Guidelines***
- **Simplify complex practices and procedures** in case preparation
- Avoid common traps in **workers compensation cases** in light of legislative amendments
- Demystify **complexities of a medical negligence case**
- Refresh your knowledge of **medical terminology** to prepare a case for assessment

Expert speakers include:

Her Honour Justice Margaret Beazley AO

Her Honour Judge Margaret Sidis

**Associate Professor Peter Cashman,
University of Sydney**

**Cameron Player, Deputy General Manager,
Motor Accidents Authority**

Raj Kanhai, QBE Insurance

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Professional Development

Personal Injury Law Conference

Winning outcomes through recent case analysis

Day one: 10th November 2008

8:30	Arrival and registration	2:25	Examining liability for injuries during sport <ul style="list-style-type: none">• Considering the personal liability of the tortfeasor for injuries sustained by a participant in a sporting contest• Analysing the liability of sporting organizations for such injuries• Issues arising from disciplinary proceedings taken against the tortfeasor• The common actions for personal injury in the context of school sports• The nature and extent of the liability of schools for such personal injury• <i>Sporting Injuries Insurance Act (NSW)</i>• <i>Civil Liability Act (NSW)</i> Geoffrey Bellew SC, Barrister, Garfield Barwick Chambers
9:00	Introductory remarks from the Chairperson Alexander Bolton, Partner, Moray Agnew	3:10	Afternoon tea
9:05	Keynote Address The conduct of personal injury actions in the NSW Court of Appeal: insight from the bench Her Honour Justice M. J. Beazley AO, NSW Court of Appeal	3:30	Examining product liability in personal injury matters and applying recent law <ul style="list-style-type: none">• Causes of action under <i>Trade Practices Act (TPA)</i> and <i>Fair Trading Act (FTA)</i>• Damages under TPA and FTA• Comparison between claims in negligence and under TPA and FTA• Injured workers and product liability claims• Motor vehicle accidents and product liability claims• Intersection between claims under TPA/FTA and <i>Civil Liability Act</i>• Recent cases and legislative amendments Ben Zipser, Barrister, Selborne Chambers
9:35	Determining the liability of a public authority: protected species or fair game? <ul style="list-style-type: none">• Reviewing Part 5 of the <i>Civil Liability Act 2002</i>• Relevant cases and pending appeals• Unresolved areas of the law• The current status of liability of public authorities Phillip Perry, Barrister, William Deane Chambers	4:15	Assessing damages for catastrophic injury: key considerations and recent trends <ul style="list-style-type: none">• The fundamental differences in assessing damages for catastrophic injury• The treatment of life expectancy, and the evidential considerations in addressing this head of damage• The provision of care and the effect of the “No Fault Lifetime Care and Support System”• The current state of the law on fund management, and the evidential considerations in the preparation of a claim for fund management• Additional issues to be considered when preparing a catastrophic injury case Richard Royle, Barrister, Sir Owen Dixon Chambers
10:20	Morning tea	5:30	Closing remarks from the Chair
10:40	Applying recent developments in the law to occupier's liability cases <ul style="list-style-type: none">• Relevant provisions in the <i>Civil Liability Act</i>• Recent cases that have affected practice• How recent developments advantage plaintiffs and defendants Ian Newbrun, Barrister, Jack Shand Chambers	5:40	Close of day one
11:25	Using particulars, interrogatories and offers of compromise to succeed in personal injury actions <ul style="list-style-type: none">• Particulars: what you do and don't have to provide• Interrogatories: what are “special reasons”?• Offers of compromise and Calderbank letters - the impact of recent cases Michelle Castle, Barrister, Selborne Chambers		
12:10	Networking lunch for speakers and delegates		
1:10	Keynote Address: Perspectives from the Bench Important considerations in conducting personal injury proceedings in the District Court Her Honour Judge M. Sidis, District Court of New South Wales		
1:40	Instructing, understanding and working effectively with experts in personal injury actions <ul style="list-style-type: none">• Procedural rules governing expert evidence• Evidentiary rules governing opinion evidence• Ensuring that expert evidence is admissible• Recent law reform and proposals Dr Peter Cashman, Barrister and Associate Professor, Faculty of Law, Sydney University		

Day two: 11th November 2008

8:30	Arrival and registration	1:35	Introductory remarks from the afternoon Chairperson <i>Denis Mockler, Partner, Stewart Cuddy & Mockler</i>
9:00	Opening remarks from the morning Chairperson <i>Bill Madden, National Practice Group Leader, Medical Negligence, Slater & Gordon</i>	1:40	Reviewing the circumstances in which the Court will find vicarious liability for Intentional Torts: a review of Non-Delegable duties <ul style="list-style-type: none">• Employers' liability for acts of employees and contractors• Discussion of the most recent Court of Appeal cases regarding security guard/bouncer assaults• Overview of cases regarding Non-Delegable duties of care with a focus on school sexual assault cases including <i>Lepore v NSW & Anor</i> <i>Jnana Gumbert, Associate Director, Stacks/Goudkamp</i>
9:05	Motor Accidents Compensation Amendment (Claims and Dispute Resolution) Act 2007 and revised Claims Assessment Guidelines: more of the same for personal injury lawyers or a different practical approach? <ul style="list-style-type: none">• Reviewing changes to the <i>Motor Accidents Compensation Amendment (Claims and Dispute Resolution) Act 2007</i>• Examining the revised Claims Assessment Guidelines• Analysing the impact of the changes on personal injury practice <i>Richard Buckley, Partner, McLaughlin & Riordan</i>	2:25	Traversing the claims process: practical perspectives in Workers Compensation claims <ul style="list-style-type: none">• Making a claim• Declining a claim• Dispute Resolution• Appeal process• Recent cases of interest <i>Maithri Panagoda, Partner, Carroll & O'Dea</i>
9:50	Managing claims and approaching dispute resolution in the current environment: an insurer's perspective <ul style="list-style-type: none">• An insurer's wish list• Insurers' obligations in the CTP arena• A better approach to claims management - putting the injured person in the centre• An end to adversarialism? Communication, Collaboration, Co-operation and Courtesy as noble aims for the scheme• Minimising disputes/maximising outcomes - the 'hired gun' versus the trained professional expert• Challenges for the industry in working with legal practitioners - a common interest in making the scheme work <i>Raj Kanhai, CTP Claims Manager - NSW, QBE Insurance</i>	3:10	Afternoon tea
10:35	Morning tea	3:25	Managing claims effectively under the Comcare Regime <ul style="list-style-type: none">• Overview of the Comcare including comparisons with other workers compensation schemes• How the Comcare claims system works• Managing claims in the Administrative Appeals Tribunal• The Comcare regime and the move towards national consistency in workers compensation <i>Kristina Miller, Partner, Sparke Helmore Lawyers</i>
11:00	Examining judicial reviews through the Supreme Court <ul style="list-style-type: none">• What is a review and an overview of the process• Grounds to argue and pitfalls to avoid• Considering <i>QBE Insurance v Motor Accidents Authority</i>: can a third party insurer increase its allegation of contributory negligence in the CARS process?• Discussing recent case law: <i>IAG v MAA of NSW</i>; <i>Kelly v MAA of NSW</i> and <i>Anor</i> <i>Helen Wall, Barrister, Henry Parkes Chambers</i>	4:05	Preparing a winning dust diseases claim <ul style="list-style-type: none">• What is a dust disease?• Establishing who has a cause of action in the Dust Diseases Tribunal• Can you sue outside the Dust Diseases Tribunal for a dust disease?• Settling/resolving litigation involving dust diseases: key matters for consideration and practical tips <i>Theodora Ahilsa, Partner, Maurice Blackburn</i>
11:45	Navigating the new MAS and understanding legal costs in the CTP scheme <ul style="list-style-type: none">• An earlier, faster, clearer medical assessment process or just more hoops to jump through?• An in-depth look at the new 2008 Medical Assessment Guides and their impact• What costs are payable on CTP claims and how are they now calculated?• A practical look at the new 2008 Costs Regulation and its impact <i>Cameron Player, Deputy General Manager, Motor Accidents Authority</i>	4:40	Stepping inside a medical negligence action: case theory and current issues <ul style="list-style-type: none">• "What's my case worth?"• Collecting and understanding medical evidence• Identifying and using experts• Applying case theory• Assessing damages• The impact of recent cases <i>David Hirsch, Barrister, Selborne Chambers</i>
12:30	Networking lunch for speakers and delegates	5:30	Closing remarks from the Chair
		5:40	Close of conference

Day three: Interactive sessions - 12th November 2008

8:30 **Morning workshop registration**

MORNING WORKSHOP: 9:00 - 11:30

Decoding and preparing medical negligence actions: your ultimate step-by-step guide to medicine and law

Networking morning tea included

Key learning outcomes from this workshop include:

- An overview of current medical negligence law
- Detailed review of key cases, including recent developments
- Assessing a medical negligence claim – is your client likely to succeed and will it really be worth it?
- Effectively using medical evidence to build your case
 - Understanding and using medical records
 - Using and briefing experts
- Commencing action: tips in pleading medical negligence actions
- Practice and procedure
 - Discovery and interrogation

By the end of this workshop, you will have a clearer understanding of how to run a medical negligence claim with simplified practical guidelines to assist in decoding the medical aetiology and applying it in the relevant documentation.

Bill Madden, National Practice Group Leader, Medical Negligence, Slater and Gordon

Bill Madden is the National Practice Group Leader for Medical Negligence with Slater & Gordon, part time lecturer at the University of Western Sydney and co-author of the texts 'Health Care & the Law' (Thomson Law Book Co) and 'Australian Medical Liability' (Lexis Nexis Butterworths, due 2008). Bill is also an editorial board member for the Lexis Nexis journals 'Australian Health Law Bulletin' and 'Australian Civil Liability'.

Richard O'Keefe, Barrister, Maurice Byers Chambers

Richard O'Keefe, barrister, practises at the NSW bar and has a special interest in medical negligence cases. He has advised and appeared in such cases since 1995 first as a solicitor at Slater and Gordon and Blake Dawson and since 2000 as a member of the NSW bar.

11:00 **Mid-day workshop registration**

MID-DAY WORKSHOP: 11:30 - 1:30

Demystifying the medicine necessary for personal injury claims

Key learning outcomes from this workshop include:

- Understanding medical terminologies required to prepare a winning case
- Providing appropriate, specific and meaningful information about your client's condition to the medical assessor: what to include
- Decoding the medical guides relevant to your clients' claim

Coordinator: Denis Mockler, Partner, Stewart Cuddy & Mockler Lawyers

Denis Mockler was formerly the Transport Accident Compensation Manager at the GIO before entering private practice. Denis now acts for both claimants and insurers and is a CARS Assessor. In addition, Denis was an Acting Judge in the District Court and an Arbitrator in both the District and Local Courts. He is a member of the Injury Compensation Committee of the Law Society, an Accredited Specialist and a trained mediator.

Psychiatrist: Associate Professor Jonathan Phillips

Associate Professor Jonathan Phillips is a psychiatrist involved in three separate areas of practice. He offers consultancy advice to health services and other bodies. He has a substantial clinical practice and offers medico-legal advice and opinion. Dr Phillips holds academic positions at three universities. He has been President of the Australian & New Zealand College of Psychiatrists and has also held the position of Chair of the Committee of Presidents of the Australian Medical College. In addition, Dr Phillips has been the Director of a State Health Service and has held other senior appointments within the broad health domain.

"Cracking the head of the psychiatrist"

- Understanding the role of the psychiatrist and the relevant information of the psychiatrist in assessing personal injury
- What questions should you put to the psychiatrist?
- How do you get the best out of the psychiatrist?
- What do you need in the report prepared by the psychiatrist?
- Avoiding common traps by you and the psychiatrist

Rehabilitation Specialist: Dr Stephen Buckley

Dr Buckley is a consultant physician in Rehabilitation Medicine based in private practice in Northern Sydney. He has appointments at Royal North Shore Hospital and the Royal Rehabilitation Centre Sydney, caring for people with brain injury. He is the President of the Australasian Faculty of Rehabilitation Medicine and is member of the Councils of both the MAA and the Lifetime Care and Support Authority.

Assessing brain injury in personal injury litigation

- The difficulty of detecting brain injury in serious trauma
- Understanding the assessment of brain injury
- Assessing the disability caused by brain damage in the short and long term, including impact on employment
- Essential case preparation in order to prove the diagnosis.

Orthopaedic Surgeon: Dr Roger Pillemer

Dr Roger Pillemer is an orthopaedic surgeon in private practise in Sydney, who has a special interest in impairment assessments. Dr Pillemer is an Approved Medical Specialist with the Workers Compensation Commission, and has been, since its inception in 2002. He is also a member of the Appeal Panel Group.

Assessing impairment of the lumbar spine in spinal injury cases

- Explanation of medical terminology
- The anatomy of the region
- The importance of radiculopathy
- The different types of investigations
- A demonstration of how an orthopaedic surgeon examines the spine

1:30 - 2:30 **Mid-day and afternoon workshop delegate and
speaker lunch**

Continued over...

Day three: Interactive sessions - 12th November 2008

2:00 **Afternoon Workshop Registration**

AFTERNOON WORKSHOP: 2:30 - 4:30

Preparing for a CARS assessment: a how to guide in a changing and challenging environment

Preparation

- The front-end loaded system
- Working with the recent amendments to the legislation and procedures
- Drafting effective witness statements
- Drafting persuasive submissions
- Getting the balance right: making out the key points of your case and not over stating the position so as to detract from the case

Presentation

- The art of effective advocacy at CARS hearings
- When to seek to ask questions of a witness
- Effective closing statements
- Offers and claims for interest

Cases

- Court of Appeal decisions
- How the decision of Hayek v Trujillio may impact procedural matters where a late claim has been determined by an Assessor adversely to the Claimant

Geoffrey Adelstein, Partner, Diamond Conway Lawyers

Geoffrey Adelstein is an accredited Specialist Advocate in personal injury litigation. He is also a NSW Workers Compensation Arbitrator a CARS Assessor and LEADR Accredited Mediator. Previously he has been a District and Supreme Court Arbitrator. With over 31 years' experience in law practice, Geoffrey is now a Partner at Diamond Conway Lawyers. As well, Geoffrey is a member of the Law Society Sub-Committee for accrediting specialists in advocacy and was a previous Member of the Law Society Sub-Committee for personal injury.

John Watts, Barrister, Frederick Jordan Chambers

John Watts' main areas of practice include, personal injury, medical and professional negligence, coronial inquests and building. He teaches with the Australian Advocacy Institute and with the International Institute of Forensic Studies at Monash University, as well as lecturing in Practice Procedure and Dispute Resolution at University of Western Sydney, where he qualified with a Master of Laws. John is a member of the NSW Law Society Advocacy Accreditation Committee, is a CARS Motor Accidents Assessor and sits on the MAA Reference Group. In 1998, 1999, 2002 he was a member of the Australian Bar Association Advocacy teaching team to Bangladesh.

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Telephone: _____

Fax: _____

Email (required**): _____

Delegate 2 details

Mr/Ms/Dr: _____
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Position: _____

Telephone: _____

Fax: _____

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Delegate 3 details

Mr/Ms/Dr: _____
First name Last name

Position: _____

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B CONFERENCE RESOURCES

I am unable to attend but would like to purchase a set of conference papers for Personal Injury Law Conference \$300.00 + GST = \$330.00

TEAM DISCOUNTS*

Register a team of 2 for Personal Injury Law Conference at the same time, from the same organisation and receive a free pass for the 3rd delegate.

* Early Bird, team discounts and any other discount cannot be taken concurrently

PROGRAM CHANGES

Details regarding this conference were confirmed and correct at the time of printing. LexisNexis reserves the right to cancel or amend the conference details at any time if required.

CANCELLATION

Your registration will be confirmed in writing when full payment is received. We will refund your registration in full less a \$165 administration fee if notification is received in writing by 10 October 2008. If we receive written notification between 10 October 2008 and 24 October 2008 you will receive a 50% refund and conference documents. No cancellation requests will be accepted after 24 October 2008. You may nominate a replacement, however no refund will be issued.

C Event Pricing (please tick your selection)

Early Bird Special* (register & pay before 3 October 2008)

<input type="checkbox"/> Two Day Conference + 3 Workshops	\$2300.00 + GST = \$2530.00
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