

Health News

Legal Issues update for the Health Profession

Stacks//Snedden Hall & Gallop are moving to Deakin

For any of you who have recently visited our offices, you will be aware that we are gradually being encircled by construction sites and new development. Parking has become a major problem for clients, contacts and staff, and the pleasant views we once experienced from our office are quickly disappearing.

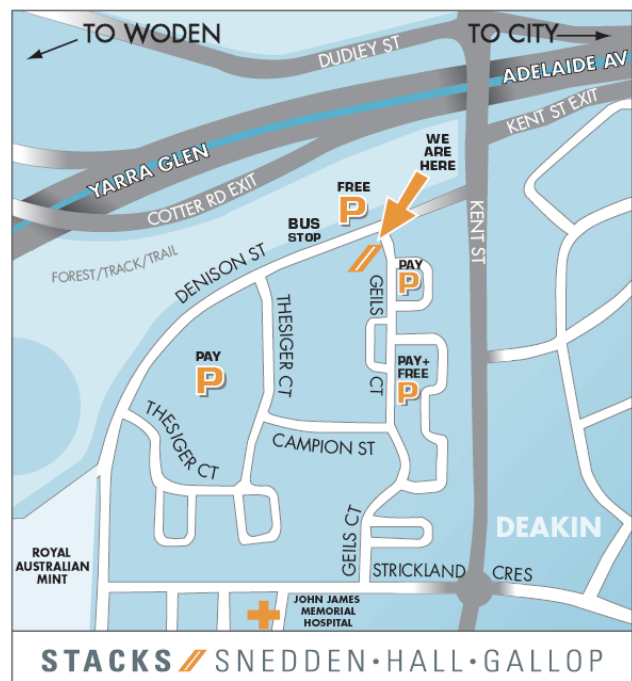
In the circumstances, we have decided to relocate our office to new premises in Geils Court at Deakin and we will be moving probably in about March 2007. We will let you all know when we have moved and provide our new contact details, but needless to say, we will be offering a new start with plenty of parking and an excellent work environment.

The other good news for the firm is that a senior ACT lawyer, Col Blain, has joined our firm as a senior consultant. Col has a wealth of experience in all types of litigation and commercial matters and is now a qualified mediator. We are thrilled to have him on board and look forward to a long association with him.

We look forward to catching up with you in our new office and, although we sense there

may be some temporary discomfort in our move, we are excited about a new start and we take on board the words of the French novelist, Natole Francé who wisely said :

"One must never lose time in complaining about the changes which cause us discomfort, for change is the very essence of life".



Safety at Work and WorkChoices AWA's

Injuries in the workplace are a continuing concern to employers, employees, and legislators alike. At present the Australian Capital Territory is one of the few jurisdictions to allow injured workers to recover general damages for pain and suffering where their injuries have been caused by negligence in the workplace.

Concern has been raised however, about the impact of the new WorkChoices Industrial Relations legislation upon safety issues in the workplace. It is true that AWAs in their various forms, are replacing many of the terms and conditions of State and Federal Awards,. In addition, the new WorkChoices legislation prohibits the inclusion in new AWAs of matters described as 'prohibited content'. One of the categories of prohibited content covers issues that do not directly pertain to the employee/ employer relationship, for example safety issues. The Federal Court has held that issues directly pertaining to the employment relationship are limited to provisions concerning the performance of work or providing some benefit or reward in exchange for performing work. It follows therefore that AWAs can neither impose nor remove obligations to take care and maintain safe systems of work as stipulated under the various occupational health & safety laws of States and Territories. Those laws remain unaffected by WorkChoices. OH&S breaches can still occur and employers can still be prosecuted for activities, which lead to injuries. Workers should therefore not be concerned about an erosion of their workplace safety regime being caused by the introduction of AWAs into their workplace.

For more information on the new WorkChoices legislation, speak to **Bill Andrews** at Snedden Hall & Gallop on 6201 8900.

Claims for losses in superannuation funds caused by broker's actions

Since November 2005, our litigation team has been busy collating details of losses suffered by a large number of clients in their personal investment portfolios and self managed superannuation funds, whilst they were managed by Mr Eric Hawley, a local broker.

The cases we have looked at so far involve losses of up to \$700,000.00 suffered by clients of all age groups - young businessmen with investment portfolios to self funded retirees. In many cases the consequences of mismanagement were catastrophic.

In one case a client left his broker's office realising he had only \$10.00 to his name and had to walk to Centrelink for assistance.

Our investigations, aided by expert advice from the ANU Law School, have identified numerous breaches of the Corporations Act, ASIC Rules, and the common law requirements of investment advisers who hold a

fiduciary duty of care to their clients. Negligent advice and misrepresentation are common factors in all cases.

Whilst many claims have been lodged we are yet to see a positive response from the employers of the broker. We propose to press for the early resolution of these claims through a commercial mediation process but if all else fails, proceedings will be commenced in the Supreme Court of the ACT.

Our strategy is to explore all avenues of mediation to achieve early, appropriate settlements of the claims.

For further information call **Bill Andrews** on 6201 8900.

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Immigration Opportunities for Medical Practitioners

Medical Practitioners are identified as one of the groups of occupations most highly in demand in Australia at present.

Almost all forms of practitioners, from GPs to Nuclear Medicine Technologists are currently being targeted under the Department of Immigration and Multicultural Affairs' Migration Occupations in Demand List. The result is that great visa opportunities exist both for permanent and temporary residency for doctors (etc) from overseas.

For further information matter, please contact our registered Migration Agents **Gerald Santucci** (MARN 9256528), or **Nicholas Tebbey** (MARN 0533386), on 6201 8900.