

**IN THE DUST DISEASES TRIBUNAL
OF NEW SOUTH WALES**

No 52 of 2011

BETWEEN	JOHN KEVIN BRUCE Plaintiff
AND	ALLIANZ AUSTRALIA INSURANCE LIMITED First Defendant
AND	QBE INSURANCE (AUSTRALIA) LIMITED Second Defendant

CONTRIBUTIONS ASSESSMENT DETERMINATION

1. By his Amended Statement of Claim John Kevin Bruce (“the Plaintiff”) alleges that:
 - (a) For a period of about 10 years, between 1958 and about 1967, he was employed by Begg & Greig Engineering Pty Ltd (hereinafter referred to as “Begg & Greig”) who operated from business premises at Erskine Street, Sydney and in the course of such employment he was exposed to asbestos dust and fibre. Begg & Greig had a policy of insurance with QBE Insurance (Australia) Limited (hereinafter referred to as “QBE”).
 - (b) For a period of approximately 2 years, between January 1968 and December 1969, the Plaintiff was employed by S.G. White Pty Ltd (hereinafter referred to as “White”), which company operated from premises located at Balmain and in the course of such employment the Plaintiff was exposed to, and inhaled asbestos dust and fibre. White had a policy of insurance with Allianz Australia Insurance Limited (hereinafter referred to as “Allianz”).
 - (c) The Plaintiff sustained injury in the nature of malignant mesothelioma, (which of course is an indivisible condition).

2. The Plaintiff provided a Statement of Particulars, filed on 29 March 2011, which relevantly alleged:

- (a) While employed by Begg & Greig, the Plaintiff performed 40% of his work working in ships and 60% working at the factory premises.
- (b) While working on ships the Plaintiff was exposed to asbestos dust and fibre or in the factory premises.
- (c) While employed by White the Plaintiff estimates that he spent 40% of his time working on ships and 60% of his time working in factories.
- (d) The Plaintiff was exposed to asbestos as a result of him removing lagging either whilst on a ship or on factory premises, or working in areas where fellow workmates undertook this work.
- (e) While working for Begg & Greig, and also White, the Plaintiff alleges that the exposure to asbestos was similar in intensity.

3. Allianz provided a Reply on 6 May 2011 which, relevantly, alleged:

- (a) Allianz and QBE should be both considered Category 2 Defendants, as employers.
- (b) That there should be no variation applied to different levels of knowledge.
- (c) The Plaintiff worked with White for 2 years and with Begg & Greig for 11 years and that apportionment should be based on such periods of exposure.

4. QBE provided a copy of a Reply filed on 25th May which, relevantly alleged:

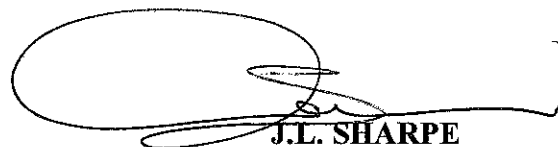
- (d) Allianz and QBE should be both considered Category 2 Defendants, as employers.

- (e) That there should be no variation applied to different levels of knowledge.
 - (f) The Plaintiff worked with White for 2 years and with Begg & Greig for 11 years and that apportionment should be based on such periods of exposure.
5. Initially, the Contributions Assessor must determine the existence of any separate periods of exposure pursuant to clause 5(8) and make a determination of what proportion of the whole each separate period bears, having regard to the number of such periods, the length of each period, duration of and intensity of exposure to asbestos present in each such period.
 6. Based on the material available to me, I determine that the level and intensity of the exposure with each of Begg and Greig and White was similar.
 7. I determine that the two periods of exposure were:
 - (a) The period of exposure whilst employed by Begg & Greig was 10 years; and
 - (b) The period of exposure whilst employed by White was 2 years.
 8. I determine that each of the Defendants was a Category 2 Defendant.
 9. I determine the liability of the two periods as follows:

Begg & Greig	-	83%
White	-	17%
 10. I have therefore determined the liability of the Defendants as:

Allianz Australia	-	17%
QBE	-	83%
Total	-	100%

11. Pursuant to clause 61 of the Regulations, I appoint QBE as the Single Claims Manager as it is the primary Defendant defined under clause 61(9).



J.L. SHARPE

Chambers,

26 May 2011