

CONTRIBUTIONS ASSESSMENT

DUST DISEASES TRIBUNAL

MATTER NO: 317 of 2009 & 317 of 2009 CC1

Robert Gerald Schafer

Plaintiff

Comcare

Defendant

Seltsam Pty Ltd

Cross Defendant

DETERMINATION

INTRODUCTION

By letter dated 16 March 2010 bearing the signature of the Registrar of the Dust Diseases Tribunal I am appointed Contributions Assessor in these proceedings.

I have been provided with the file of the Dust Diseases Tribunal that contains the following material upon which I rely in making this determination:

1. Plaintiff's Statement of Particulars ("Particulars")
2. Defendant's Reply and Amended Reply
3. Cross Defendant's Reply

In addition to the material described at 1-3 above I rely on the Standard Presumptions set out in Dust Diseases Tribunal (Standard Presumptions – Apportionment) Order 2007.

I assume that each defendant is liable to the Plaintiff who is a 72 year old male who has allegedly contracted mesothelioma.

The Category into which each Defendant falls is not relevant.

PLAINTIFF'S ALLEGATIONS OF EXPOSURE

Where I refer to "exposure" or its derivation this is to be taken to mean exposure to and inhalation into the plaintiff's respiratory system of asbestos dust and fibre.

The Plaintiff alleges two separate periods of exposure.

The first period he says accounts for 85% to 90% of his total exposure and occurred when he was in the Royal Australian Navy in 1957. The second period occurred

when he was employed by Seltsam in 1959 and he says this accounts for 10% to 15% of his total exposure.

CONTRIBUTION ASSESSMENT

There are two separate periods of exposure. The Plaintiff's alleged condition is indivisible. There is no good reason not to adopt the Plaintiff's own assessment of his respective exposures. I therefore determine contribution to be Comcare 85% and Seltsam 15%. I appoint Comcare Single Claims Manager.

A handwritten signature in black ink, appearing to be 'Toby Tancred', written in a cursive style.

Toby Tancred

Date: 22 March 2010