



**Summary of 2012 - Calendar Year  
Main Points**

1. **Correspondence:** *Incoming including facsimile and email, approximately, 141,000  
Outgoing including facsimile and email, approximately 159,000*
2. *416 new registers were evaluated and counselled by the ADS Advisory Staff in relation to issues of asbestos-caused diseases. 1,500 members were reviewed by Dr G Deleuil.*
3. *Confirmed diagnosis of asbestos-caused disability amongst ADS membership Australia wide: asbestosis & silicosis 32, lung cancer 27, mesothelioma 160, asbestos pleural disease 760 (Parietal Pleural Plaques, Diffuse Pleural Fibrosis, Benign Asbestos Effusion and Rounded Atelectasis).*
4. *47 members were assisted and referred to the Industrial Diseases Medical Panel in accordance with Section 36 of the Workers' Compensation and Injury Management Act 1981 (99% of the applicant's received a determination of industrial disease disability Section 33). 45 members residing Interstate were assisted with compensation claims. A further 980 were provided with information kits on asbestos issues.*
5. *Deaths: Sadly more than 278 of our dear friends and members have lost their lives due to asbestos-caused disease during the proceeding year.*
6. *Approximately 24,000 general inquiries (including email and fax) were received by ADS office re medico/legal matters, Centrelink, Workers' Compensation, Comcare, Veterans Affairs entitlement, taxation, testamentary and other confidential issues.*
7. *Approximately 1,950 general environmental asbestos inquiries (including email and fax) were received from the community and both private and public instrumentalities. (ADS Environmental Officer, assisted by ADS Advisory staff, attended to most of the inquiries).*
8. *5-6 visits per week were carried out by ADS caring counsellors to sick members both at home, hospital, hospice, nursing homes and including country visits.*
9. *The Ecumenical Memorial Service was held at North Perth Redemptorist Monastery on 30/11/12 in memory of those who have died from asbestos caused diseases.*
10. *More than 600 members and friends attended the Annual Christmas Picnic at Whiteman Park 2/12/12. Mesothelioma/lung cancer support group meetings, committee meetings, plus numerous other meetings.*
11. *Attendance to Seminars and meetings on asbestos issues in W.A. and Eastern States.*
12. *Asbestos Awareness Program was conducted at the Osborne Park Community Centre from Monday 26 - Friday 30 November 2012. Substantive packaged information was handed to the public also practical information on how to deal with asbestos products in the home. 450 free lung function tests were provided to the Community of Western Australia.*
13. *ADAS staff also provided assistance and support to 190 Eastern States and 32 overseas members with Workers Compensation/Common Law, product liability.*
14. *Several members were assisted with Veterans Matters i.e. pension/compensation, both in Western Australia, Eastern States and Overseas.*
15. *All fundraising proceeds from the Walk for Wittenoom Children and the Golf Tournament were allocated into the research programs for asbestos caused diseases and treatments.*



**AGENDA**

**The Asbestos Diseases Society of Australia Inc**

**ANNUAL GENERAL MEETING**

**Saturday 23<sup>rd</sup> February, 2013, 2.00pm**

1. Welcome by President - Robert Vojakovic AM JP
2. Hon. Treasurer's Report - John Martelli BA (Trng & Dev)
3. Election of Ordinary and Executive Committee - Conducted by Col. Rod Willox AM JP RFD ED KSJ ADSA Returning Officer
4. Vice President's Report - Dave Hall Ass. Deg OH&S Cert IV Training
5. Dr Greg Deleuil AM RFD MB BS (W.A)  
*Asbestosis and Usual Interstitial Pneumonia (UIP)*
6. Y C Gary Lee MBChB Phd FRACP FRCP FCCP, Winthrop Professor of Respiratory Medicine, Director of Pleural Services, Consultant Chest Physician  
*Benefits of a specialist pleural unit for patients with Asbestos Pleural Diseases*
7. Professor Anna Nowak MB BS, PhD W. Aust, FRACP Medical Oncology SCGH  
*Research and Clinical Trials of new treatments for mesothelioma patients*
8. Ms Laine McDonald B.A (Hons), LL.B Asbestos Practice Group Slater & Gordon  
*Damages assessment in asbestos diseases claims*
9. Hon. John Kobelke MLA Member for Balcatta *Brief update to members and friends*
10. Hon. Liz Behjat MLC Member for North Metropolitan Region *Government Brief update to members and friends*
11. Dr Greg Deleuil AM RFD MB BS (W.A) *Emeritus Professor Eric Saint Memorial Introduction 2013.*
12. Rose Marie Vojakovic AM CTA *Brief background and announcement of the recipient of the Eric G. Saint Memorial Award 2013*
13. Presentation of the Emeritus Professor Eric G. Saint Memorial Award 2013 by the Hon. John Kobelke MLA Member for Balcatta
14. Recipient of the Professor Eric G. Saint Memorial Award

**REFRESHMENTS**



## AN ASBESTOS DISEASES SOCIETY OF AUSTRALIA TRIBUTE TO THE PIONEERING WOMEN IN THE STRUGGLE OF ASBESTOS DISEASE SUFFERERS AND THEIR FAMILIES FOR JUSTICE

OVER THE LAST 100 YEARS MANY COURAGEOUS WOMEN HAVE FOUGHT ASBESTOS COMPANIES, THEIR INSURERS AND LAWYERS, FOR THE LOSS OF THEIR HUSBANDS, BROTHERS, SISTERS, CHILDREN AND GRANDCHILDREN, AND FOR THEIR OWN LIVES. WE HAVE CHOSEN TO HIGHLIGHT THE FIGHT OF TWO COURAGEOUS WOMEN THAT HAVE HAD AN IMMEASURABLE IMPACT ON THE LIVES OF ASBESTOS DISEASES SUFFERERS IN AUSTRALIA.

# THE STORY OF NELLIE KERSHAW



## NELLIE KERSHAW 1891–1924

**“WHAT ARE YOU GOING TO DO ABOUT MY CASE? ... I AM NEEDING NOURISHMENT AND THE MONEY, I SHOULD HAVE HAD 9 WEEKS WAGES NOW THROUGH NO FAULT OF MY OWN.”**

FROM MRS KERSHAW'S LETTER TO HER EMPLOYER TURNER BROTHERS ASBESTOS COMPANY IN 1922

**ASBESTOSIS** ALSO KNOWN AS PULMONARY FIBROSIS IS AN ASBESTOS DISEASE WE HAVE ALL HEARD OF. THIS NAME FOR THE FIBROSIS OF THE LUNGS DUE TO THE INHALATION OF ASBESTOS DUST WAS CREATED IN 1927 BY DR W.E. COOKE WHEN HE REPORTED ON THE MEDICAL FINDINGS IN THE CASE OF NELLIE KERSHAW A 33 YEAR OLD MOTHER AND FACTORY WORKER AT THE TURNER BROTHERS ASBESTOS COMPANY IN ROCHDALE, UK.

**MRS NELLIE KERSHAW** HAD WORKED FOR TWO ASBESTOS COMPANIES IN HER SHORT LIFE, GARSIDES AND TURNER BROTHERS. FROM THE ACCOUNTS GIVEN BY HER FAMILY AND HER DOCTOR, MRS KERSHAW'S HEALTH HAD BEEN "QUITE GOOD" UNTIL ABOUT THE AGE OF 29 WHEN SHE STARTED BEING TREATED BY HER DOCTOR FOR A LUNG CONDITION. FOR TWO OR THREE YEARS HER PULMONARY SYMPTOMS WERE UP

AND DOWN AND SHE CONTINUED TO WORK UNTIL THE WEEK ENDING 22 JULY 1922, WHEN SHE WAS ISSUED A NATIONAL HEALTH INSURANCE CERTIFICATE OF UNFITNESS FOR WORK.

**ON 14<sup>TH</sup> MARCH 1924** MRS KERSHAW DIED FROM ASBESTOSIS. **MRS KERSHAW'S DEATH WAS TRAGIC AND PREVENTABLE.** A QUARTER OF A CENTURY BEFORE IN 1898, AND NOT LONG AFTER THE EARLY EXPANSION OF THE ASBESTOS INDUSTRY IN THE UK, THE CHIEF INSPECTOR OF FACTORIES FOR BRITAIN HAD INCLUDED ASBESTOS AMONG THE FOUR MOST HAZARDOUS DUSTS. RECOMMENDATIONS WERE MADE FOR THE APPLICATION OF VENTILATION TO ASBESTOS PROCESSES.

**IN 1906** A DEPARTMENTAL COMMITTEE OF THE BRITISH GOVERNMENT INQUIRY INTO THE COMPENSATION FOR INDUSTRIAL DISEASES DECIDED NOT TO INCLUDE ASBESTOS-INDUCED ILLNESS IN THE LIST OF COMPENSABLE DISEASES ON MEDICAL ADVICE THAT **NOW THAT IT WAS KNOWN THAT ASBESTOS EXPOSURE COULD CAUSE SERIOUS, EVEN FATAL, DISEASE, APPROPRIATE PRECAUTIONS WOULD BE TAKEN, AND THERE WOULD BE NO NEED FOR COMPENSATION.**

**HOWEVER,** THE CHIEF INSPECTOR OF FACTORIES REPORT FOR 1910 GAVE AN ACCOUNT OF FIVE DEATHS IN FIVE YEARS IN AN ASBESTOS FACTORY EMPLOYING FEWER THAN 40 WORKERS AND HOW EXHAUST VENTILATION WAS RECOMMENDED AND ANNUAL MEDICAL EXAMINATIONS WERE INSTITUTED. THE FACTORY DEPARTMENT'S OBSERVATIONS AND MISGIVINGS LED IT TO MAKE INQUIRY OF CANADA'S DEPARTMENT OF LABOR AS TO THEIR EXPERIENCE WITH ASBESTOS IN QUEBEC, THE SOURCE OF MUCH OF BRITAIN'S ASBESTOS.

**AN OFFICER OF THE DEPARTMENT** INVESTIGATED THE MATTER IN JANUARY 1912 AND FOUND NO DIFFICULTY. HE VISITED A LARGE ASBESTOS MINE AND MILL AND STATED THAT "ALL THE WOMEN FOUND HERE LOOKED STRONG AND HEALTHY." IT WAS STATED GENERALLY THAT "THE RECORD OF DEATHS FROM LUNG DISEASES IS NOT HIGHER IN THE CENTRES OF THE ASBESTOS INDUSTRY THAN ELSEWHERE." NO PHYSICAL EXAMINATIONS WERE DONE OR MORTALITY DATA PROVIDED.

**DESPITE** THE APPEARANCE IN THE US MEDICAL LITERATURE OF A REPORT IN 1918 THAT RADIOLOGICAL ABNORMALITIES WERE FOUND IN ASBESTOS WORKERS AND ANOTHER THAT NOTED THAT **INSURANCE COMPANIES REFUSED TO GIVE POLICIES TO ASBESTOS WORKERS,** THE FACTORY DEPARTMENT DID NOT PURSUE THE MATTER FURTHER.

**IN 1924 MRS KERSHAW DIED** WITHOUT COMPENSATION. THIS WAS DUE TO THE DECISION MADE IN 1906 NOT TO INCLUDE ASBESTOS INDUCED ILLNESS AS A COMPENSABLE DISEASE ON THE ASSUMPTION THAT NOW THAT THE DANGERS OF ASBESTOS WERE KNOWN TO INDUSTRY THAT THE APPROPRIATE PRECAUTIONS WOULD BE TAKEN TO PROTECT WORKERS FROM ASBESTOS EXPOSURE. IN MRS KERSHAW'S CASE THIS ASSUMPTION WAS WRONG. HER EMPLOYER TURNER BROTHERS DID NOT IMPLEMENT APPROPRIATE PRECAUTIONS TO PROTECT MRS KERSHAW FROM ASBESTOS EXPOSURE. IN ADDITION THE FACTORIES DEPARTMENT DESPITE THEIR OWN RECOMMENDATIONS FOR EXHAUST VENTILATION FAILED TO ENFORCE AND MONITOR DUST CONTROL MEASURES AT ASBESTOS FACTORIES.

**DR THOMAS LEGGE** HAD DISCUSSED THE PROBLEM OF DEATHS IN ASBESTOS FACTORY WORKERS WITH THE INSPECTOR OF FACTORIES IN 1898 AND **FOLLOWING THE 1906 INQUIRY DR LEGGE NOTES THAT NO CLINICAL EXAMINATIONS WERE MADE DURING INVESTIGATIONS OVER THE NEXT 20 YEARS "WHICH ALONE WOULD HAVE REVEALED ITS SERIOUS AND INSIDIOUS NATURE ... LOOKING BACK IN THE LIGHT OF PRESENT KNOWLEDGE, IT IS IMPOSSIBLE NOT TO FEEL THAT OPPORTUNITIES FOR DISCOVERY AND PREVENTION WERE BADLY MISSED."**

**THE BRITISH ASBESTOS INDUSTRY IN 1898** HAD THE KNOWLEDGE AND MEANS TO PREVENT MRS KERSHAW'S DEATH AND THE DEATHS OF MANY OTHERS. **IT WAS NOT UNTIL 1931 THAT THE FACTORY DEPARTMENT MET WITH MRS KERSHAW'S EMPLOYER AND OTHER ASBESTOS MANUFACTURERS AND PREPARED A SET OF REGULATIONS.** *LANCET* IN 1971 WRITELY SUMMARIZED THEIR APPLICATION AS HAVING BEEN "A PIOUS ASPIRATION" AS ASBESTOSIS WAS STILL WIDELY PREVALENT AMONG WORKERS IN THE TURNER BROTHERS FACTORY.

FROM THE JOURNAL ARTICLE BY IRVING J. SELIKOFF, MD, MORRIS GREENBERG, MB; A *LAND-MARK CASE IN ASBESTOSIS*; JAMA, FEBRUARY 20, 1991-VOL 265, NO. 7

# THE STORY OF JOAN JOOSTEN



## JOAN MARY McDONALD JOOSTEN 1927–1980

**“I WANTED TO FIGHT BECAUSE I HOPED MINE WOULD BE A TEST CASE TO HELP ALL THE OTHERS WHO ARE GOING TO DIE FROM ASBESTOS DISEASE IN THE FUTURE. I KEPT THINKING OF ALL THOSE WOMEN TRYING TO BRING UP FAMILIES IN POVERTY BECAUSE THEY DON'T HAVE PROPER COMPENSATION ”**

QUOTE FROM MRS JOOSTEN IN THE AGE NEWSPAPER 10 OCTOBER 1979

**JOAN JOOSTEN** HAD BEEN A STENOGRAPHER EMPLOYED BY AUSTRALIAN BLUE ASBESTOS-CSR AND WORKED IN AN OFFICE ADJACENT TO THE OLD MILL AT WITTENOOM GORGE BETWEEN 1950 AND 1953. THIS WAS A FEW YEARS AFTER DR ERIC SAINT'S DUST WARNING TO CSR IN 1948. IN FEBRUARY 1977, SHORTLY BEFORE MR NORMAN IRVING FROM CSR'S COMPENSATION DEPARTMENT OBSERVED **THAT THE WITTENOOM WORKERS COULD DIE LIKE FLIES WITHOUT PINNING ANYTHING ON CSR,** MRS JOOSTEN DEVELOPED MESOTHELIOMA AND BROUGHT A CLAIM FOR DAMAGES IN THE WEST AUSTRALIAN SUPREME COURT.

**CSR DENIED EVERYTHING,** INCLUDING THAT SHE HAD MESOTHELIOMA OR THAT IF SHE HAD MESOTHELIOMA THAT IT WAS CAUSED BY WORKING FOR THREE YEARS IN AN ATROCIOUS BLUE ASBESTOS DUST CONTAMINATED OFFICE. THREE RESPIRATORY SPECIALISTS, DR ELDER, DR MUSK AND DR ELPHICK FOUND IT WAS 99% LIKELY THAT MRS JOOSTEN CONTRACTED MESOTHELIOMA FROM HER EXPOSURE TO BLUE ASBESTOS DUST AT WITTENOOM. **DESPITE HOLDING MANY THOUSANDS OF DOCUMENTS THAT WOULD LATER BE CRUCIAL IN DEMONSTRATING CSR'S NEGLIGENCE AT THE WITTENOOM BLUE ASBESTOS MINE JOAN JOOSTEN ONLY OBTAINED A TOKEN LIST OF DISCOVERED DOCUMENTS COMPRISING ABOUT 100 RECORDS. THE TRIAL IN JUNE 1979 RAN FOR 7 DAYS. JUDGMENT WAS DELIVERED ON 9 OCTOBER 1979.**

**IN THE OPINION OF HON JUSTICE WALLACE** THE CSR WITNESSES WERE "IMPRESSIVE, WELL TRAINED, TECHNICAL EXPERTS RESPONSIBLE TO THE DEFENDANT". HE FOUND IT DIFFICULT TO ACCEPT THE PLAINTIFF'S EVIDENCE THAT THE BUILDING WAS NEVER CLEANED REGULARLY BY THE DEFENDANT, HAVING REGARD TO THE QUALITY OF ITS OFFICERS BUT NEVERTHELESS THE JUDGE WAS PREPARED TO ACCEPT THAT ON OCCASIONS THE OFFICE WAS SUBJECTED TO UNCOMFORTABLE CONCENTRATIONS OF DUST.

**ONE OF THE CSR EXECUTIVE OFFICERS,** MR MALCOLM KING, LATER GAVE SWORN EVIDENCE AT THE TRIAL THAT HE HAD NOT HEARD ABOUT ASBESTOS UNTIL THE 1960S. HOWEVER DOCUMENTS AT CSR'S HEAD OFFICE WHICH KING HIMSELF HAD WRITTEN TOLD A DIFFERENT STORY. PRESUMABLY HE HAD KNOWN WHAT PROFESSOR ERIC SAINT AND DOCTOR JIM McNULTY HAD SAID, BUT HE MUST HAVE FORGOTTEN! ALSO CSR'S CONSULTING DOCTOR, DR H M RENNIE, CLAIMED HE DIDN'T LEARN ABOUT ASBESTOS UNTIL A TRIP TO JOHANNESBURG "SOME YEARS AFTER 1953" IT WOULD SEEM HE FORGOT THE ILO CONFERENCE IN SYDNEY HE HAD ATTENDED IN 1950! WHERE DR GORDON SMITH OUTLINED THE CAUSES AND CONSEQUENCES OF ASBESTOSIS AND THE ASSOCIATION BETWEEN ASBESTOS AND LUNG CANCER

**IN JUSTICE WALLACE'S OPINION** THE OFFICE IN WHICH JOAN JOOSTEN WORKED AT WITTENOOM WAS "SUBJECTED TO CONSIDERABLE DUST FALLOUT FROM THE MILL." "IT HAS NOT BEEN SHOWN BY THE PLAINTIFF THAT THE DEFENDANT COULD HAVE DONE ANYTHING MORE UNDER THE HEADING OF CONTROLLING THE DUST DURING THE RELEVANT PERIOD. THIS IS PARTICULARLY SO WHEN ONE HAS REGARD TO THE EVIDENCE OF DR MUSK AS TO THE PART PLAYED BY THE CROCIDILITE NEAR INVISIBLE FIBRES IN THE CAUSATION OF MESOTHELIOMA. **THE PLAINTIFF HAS NOT ESTABLISHED THE FORESEEABILITY OF THE RISK."**

**THE WA MINES INSPECTOR LLOYD** REPORTED IN OCTOBER 1950 ALL DUST READINGS IN THE MILL EXCEEDED 300P/CC AND MOST DUST LEVELS EXCEEDED 1000P/CC.

**WITHOUT EVIDENCE OF DR SAINT'S REPORTS WHICH WERE ALLEGEDLY "DESTROYED", AS REPORTED BY THE THEN HEALTH MINISTER HON. RAY YOUNG TO PARLIAMENT BEFORE MRS JOOSTEN'S TRIAL, JOAN JOOSTEN DID NOT SUCCEED.** THAT LEADS TO THE CONCLUSION THAT IF THE RESPONSIBLE CSR OFFICERS HAD BEEN HONEST IN THEIR EVIDENCE AND THE WITTENOOM DUST RECORDS WERE AVAILABLE, MRS JOOSTEN WAS LIKELY TO HAVE WON.

**JOAN WAS A FRAIL 44KG** WITH BIG BLUE EYES SET IN A FACE THAT WAS ONCE PLUMPER. SHE LOST 32KG SINCE THE ONSET OF HER ILLNESS. SHE WAS BRISK AND EMOTIONAL ABOUT HER TRAGEDY AND REFUSED TO TALK ABOUT THE PAIN. DURING THE 2 WEEK COURT HEARING SHE HEARD THE LAWYERS ARGUE ABOUT RESPONSIBILITY FOR HER DEATH AND FINALLY HEARD THE JUDGE SAY **IT WAS DUE TO "SAD MISADVENTURE".**

**JOAN'S STRENGTH** CAME FROM HER OWN FIGHTING SPIRIT AND COMPASSIONATE CARE FROM HER HUSBAND HUGH. WITH JOAN JOOSTEN'S HEALTH DETERIORATING, **AN APPEAL WAS LODGED AND PURSUED EXPEDITIOUSLY. THE APPEAL WAS LISTED FOR HEARING ON 10 MARCH 1980, BUT DESPITE A BRAVE FIGHT, JOAN JOOSTEN DIED HALF AN HOUR BEFORE THE APPEAL WAS HEARD.**

**THE LATE MINING MILLIONAIRE MR LANG HANCOCK** PIONEERED THE WITTENOOM MINE AND SOLD THIS TO CSR IN 1942 AND WHEN CSR CLOSED THE MINE IN DECEMBER 1966 HE AND HIS PARTNERS PURCHASED THE WITTENOOM MINE AND EQUIPMENT AND MUCH OF THE WITTENOOM TOWNSHIP. MR HANCOCK WAS NOT VERY SYMPATHETIC TOWARDS JOAN JOOSTEN AND HER QUEST FOR COMPENSATION BUT RATHER MADE AN APPALLING PUBLIC COMMENT IN JUNE 1978 THAT **"SOME PEOPLE HAD TO SUFFER SO THE MAJORITY COULD BENEFIT FROM ASBESTOS".**

**IT WAS ONLY IN 1989,** THAT MRS JOOSTEN'S ESTATE AND DEPENDENTS, ALONG WITH THAT OF CORNELIUS MAAS AND HIS WIDOW REIKE, WERE AWARDED DAMAGES AS PART OF **THE WITTENOOM GROUP SETTLEMENT NEGOTIATED BY THE ASBESTOS DISEASES SOCIETY OF AUSTRALIA AND SLATER AND GORDON.**