

APLA Northern Territory report

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In percentage terms, the Northern Territory branch of APLA is the fastest growing in the country. This fairly bold statement must be tempered somewhat with the knowledge that the threefold increase in the membership brings the total to ten.

The Northern Territory branch was formed in late 1996 and faces an uphill battle. There is an absolute statutory prohibition on actions for damages against an employer as a result of work related injuries, or actions brought by residents of the Northern Territory arising out of motor vehicle accidents. Perhaps partly as a result of these restrictions however, there is much litigation both within the sphere of work related injuries and enforcing what common law rights remain. While convincing the legislature that the re-instatement of common law rights in relation to either motor vehicle or work related injuries is obviously a difficult goal, it is a matter on the branch's long term agenda.

In the short term the matter which has caused members the most concern is the increase of the Local Court's jurisdiction in civil matters to \$100,000. There is no intermediate District/County Court level in the Territory and the Supreme Court is the venue for actions for damages of over \$100,000.

As the Magistrates of the Local Court sit as the Work Health Court and deal with matters often well in excess of this amount in any event, the increase in jurisdiction itself does not necessarily cause any great concerns to plaintiff lawyers. Of greater concern however is the increase of the Small Claims jurisdiction to \$10,000 and particularly the consequent costs restrictions in both the Local and Small Claims Courts. The Registrar of the Local Court proposed a costs scale which was graded on various bands depending upon the amount of the eventual quantum of the claim and bore no relation to the charges actually levied by solicitors. Solicitors will not, and financially cannot levy the amounts proposed by the Local Court. Any deficit would have to be covered by any amount received as compensation or damages. This deficit, substantially increased by the entirely inadequate fixed fees scale proposal, will have a dramatic effect, increasing the number of litigants who are simply unable to access the Courts, as solicitors would not be financially able to accept instructions.

The legislature's unfortunate decision to increase the Small Claims Court jurisdiction to \$10,000 has a similar effect. Given that costs will in almost all cases not be able to be recovered in relation to matters in which the quantum is less than \$10,000 and taking into consideration the costs of a day or two's trial, this means that the vast majority of people with claims which even may be less than \$10,000 (and this will be a factor particularly for the young, unemployed, or elderly people in relation to whom economic loss does not form a large portion of the damages) will not be able to obtain legal representation.

APLA has put a submission to the Chief Magistrate and a result should be known soon.

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