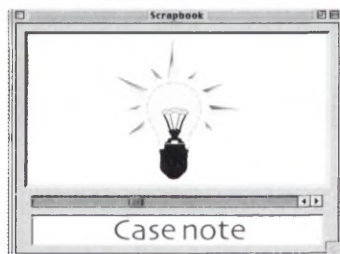


Letters



Surprise at the Putt case note

I was interested and a little surprised to read the note by Bernard McHardy on pages 43-45 of the June issue of *Plaintiff* about the decision of the New South Wales Court of Appeal in the *Putt* case. The particular point which surprised me is the [assertion] that the *Accident Rehabilitation and*



Compensation Insurance Act 1992 (NZ) should be read as extinguishing any cause of action for damages. While this may be consistent, for all I know, with earlier Australian decisions, it is plainly not the law in

New Zealand.

It is correct that the legislation bars the bringing of any claim for damages in

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I saw your article on the *Cape* case in the APLA Journal issue 39. Readers who do a lot of asbestos plaintiff work might be interested in our publication *The British Asbestos Newsletter*. Many past issues are on our website at: <http://www.lkaz.demon.co.uk>

Another website which might be of interest to you is the website of IBAS (International Ban Asbestos

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any New Zealand court where there is cover under the statutory scheme. There is, however, longstanding authority in our Court of Appeal that this does not abolish the right to claim damages, but merely bars the remedy where cover under the Act exists. It has been held that the bar applies only to claims for compensatory damages. There is thus no prohibition on bringing claims for exemplary damages, nor on claims for compensatory damages in areas where there is no cover under the Act (there are several of these). The bar would thus seem to be procedural rather than substantive. I anticipate that the issue will arise again from time to time in Australia. I am happy to provide advice for Australian plaintiff lawyers who may need help on this and similar issues. **PL**



Secretariat) at www.btinternet.com/~ibas
IBAS is helping to organise the Global Asbestos Congress in Osasco, Brazil. Richard Meeran who is the solicitor in the *Cape* case will be there and will be talking about multinational claims.

If you are a plaintiff's solicitor and are interested, I can put you on the mailing list to receive the newsletter by email. **PL**