

## GB claims manager wins Outstanding New Starter award



Len Boehm, WorkSafe Executive Director presenting Paul with his award.

**Hard work in his first year at GB's Victorian office has earned Claims Consultant Paul Mariager the Outstanding New Starter award at WorkSafe Victoria's third annual Injury Support and Service Awards.**

The La Trobe University graduate, 26, received the award ahead of nominees from the five other WorkSafe Agents.

The award is open to agents' employees who were first employed in the WorkSafe scheme between January 1, 2006, and December 31, 2007, and who had not been previously employed in the allied health, personal injury management or insurance industries.

"I was happy to win the award, although giving a speech in front of 400 people

was pretty nerve wracking," Paul said. "I thought I was in with a shot, but it was great to actually win it."

The nomination letter, written by his supervisor, Jodi Haddrick, said Paul had become an integral and productive member of his claims team since joining GB on June 7 last year. He often managed more work than his colleagues and was always eager to help out, she said.

Because he is a quadriplegic, Paul requires up to two hours each morning to prepare for work, but that had never stopped him arriving on time at 9.30am every day, Jodi said.

"Paul has not had one day off sick since he began as a claims consultant and

contributes daily to the overall success of the small-to-medium-employer team of which he is a member. Paul manages a full portfolio with the same number of claims as other full-time consultants, but manages his portfolio on part-time hours that equate to a four-day working week."

Before joining the GB team, Paul was unemployed and seeking work. He had narrowly missed gaining a role with the Federal Police and was wondering where his qualifications, a bachelor's degree in international relations and a graduate diploma in economics, would take him. But, after landing an interview with GB and being offered a job, he had decided the study was worthwhile. "It was a bit of a shock to the system when I took up the role. There's quite a big workload, but it's satisfying knowing I'm helping people return to safe work."

He said the claims team members he worked with were easy to get along with and made his work more enjoyable. "The team is one of the highlights. It's a small team of 12 of us and we get along really well."

GB MDM Case Manager Carrie Bayliss also was nominated for an award, but narrowly missed out on the Excellence in Return to Work award.



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## Successful safety management programs reduce premiums



by **John Jury**  
General Manager  
New Zealand

**When the current New Zealand Government came to office in 1999 it identified that health and safety management needed direction.**

The Accident Compensation Corporation (ACC), as a government agency and insurer, was tasked with achieving improvement.

The ACC developed a product known as the Workplace Safety Management Practices (WSMP) program, based on the legislation, the Health & Safety in Employment Act 1992, and the NZ/AS Standard 4801 Occupational Safety Management.

The ACC approach is that

**“Good business is no accident.”**

With customers becoming more demanding and competition more intense, the pressure is on to “get it right”. Businesses need to be more efficient in every part of their operation, including safety. The benefits can be remarkably far-reaching.

### Financially

Injuries prevented equals money saved – it’s that simple. The direct financial costs to a business of a workplace injury can be anything from three to eight times the cost of the ACC levy the employer pays for the employee involved. Reducing

injury rates in their own industry is the most effective way employers can help get ACC levies down.

### Staff Revisions

Working to prevent injuries builds goodwill and co-operation with staff members and unions and helps attract good staff. Serious injuries can devastate staff morale.

### Operations

Preventing injuries helps keep operations on target and running smoothly. Injuries disrupt production; investigations interrupt them even more.

### Marketing

Preventing injuries can give an organisation a marketing edge, especially if they deal with safety conscious businesses, local authorities or government departments.

With ACC WSMP, businesses can be awarded one of three levels of ACC levy discount, depending on an audit of overall health and safety standards in the workplace.

Primary level – 10%: This discount recognises that the business meets minimum performance standards across all aspects of workplace health and safety management.

Secondary level – 15%: This level recognises high standards of performance and good practice across all aspects of workplace

health and safety management.

Tertiary level – 20%: This recognises best practice across all aspects of workplace health and safety management and a commitment to continuous improvement.

For the past seven years, Gallagher Bassett New Zealand (GBNZ) has assisted employers join the WSMP, improve their health and safety management systems and save costs through the discounts. For example:

Far North District Council (FNDC): The council identified deficiencies in its health and safety management system and sought GBNZ’s services to address them and achieve the savings available through the WSMP discounts.

In 2004, FNDC had developed its health and safety management system to a level where it considered it was appropriate to join the WSMP. The secondary level was achieved at the first audit and, in 2005, FNDC was re-audited at the tertiary level, which meant it received a 20% discount on its ACC insurance premium.

FNDC has effectively re-invested the discounts into staff training in health and safety related issues. The accident frequency rates and costs have now dropped to a level where further savings will be difficult to achieve.

For more information on the WSMP, please contact John Jury, General Manager, GB NZ.

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## Careless walking caused man's fall, judge says



**A Queensland man who tripped and broke his left ankle while walking home from a Gold Coast club has failed in a damages claim against the Uniting Church in Australia Property Trust (Q.) hereinafter called The Church.**

John Ellis sued The Church for damages after he tripped on a raised paver in the driveway of The Church's Broadbeach Lifeline building on Queensland's Gold Coast on September 27, 2003. Mr Ellis had been playing snooker and drinking beer at a nearby club for several hours, and was walking home, past the Lifeline building, to his unit, less than 1km away.

Mr Ellis told the Queensland Supreme Court he had to crawl to the shelter of a small tree after the incident, where he waited for "four or five" hours before a man who boarded with him at his unit found him while walking to work at 5.30am. The man contacted Mr Ellis' wife, who took her husband to the Gold Coast Hospital. He subsequently had a series of operations to repair the fracture.

Queensland Supreme Court Justice Tony Skoien said he accepted the paver was raised but said the cause of Mr Ellis' injury was his carelessness in failing to keep a proper lookout, failing to make use of a wide, safe footpath and choosing to walk in a "potentially risky line".

He said Mr Ellis had admitted during the hearing that he was aware of the raised paver, having travelled the same route on previous occasions and, although it was raining heavily at the time of the fall and the area was dimly lit, he should have taken more care. "The cause of Mr Ellis' unfortunate injury was not any breach of duty on the part of Lifeline but his own carelessness," Justice Skoien said.

During the hearing, a Lifeline workplace health and safety officer who worked

in the building said vehicles driving over the pavers frequently caused them to become uneven and they were not always repaired immediately. She said it was a regular problem and the pavers had since been replaced with pebblecrete.

Justice Skoien said Lifeline could have re-laid the paver and reduced the risk, but that would not have "overcome the hurdle which Mr Ellis has failed to clear, that is, to satisfy me that there was a duty to remove a slight and obvious danger".

Justice Skoien said he was satisfied Ellis had not drunk enough beer to stop him walking "with reasonable skill and agility", despite a note in the Gold Coast Hospital records that said he smelt strongly of alcohol when he was admitted. "It is a notorious fact that consumption of beer in quantities such as that produces an odour which can persist for hours but which, by itself, does not establish that the drinker was particularly affected by the drinking."

Justice Skoien said the "four to six stubbies of beer" Ellis had admitted to drinking would have affected his ability to drive, but should not have affected his judgement sufficiently to stop him noticing the raised paver that he knew posed a risk.

If The Church had been found liable, damages for Ellis would have been assessed at \$130,451, Justice Skoien said.

The Church is a Gallagher Bassett client. During the claims management process, it became clear that an out-of-court settlement was impossible and a strategy was agreed between The Church, the insurer and Gallagher Bassett to push the matter to trial. The judgement included dismissing the claim against The Church and a costs award in its favour.

## Team-building days spark quirky challenges

GB employees have been photographed with celebrities, collected New Zealand \$1 coins and led each other blindfolded through obstacle courses in a four-month quest to learn "The Gallagher Way".

The team-building challenges, conducted from February 4 to June 6, gave Australian GB staff a chance to get to know each other and learn the global GB entity's values.

Organisational Development Manager Stacey Williams said all GB employees had had the opportunity to complete a one-day, team-building program with their business units. Each day included a morning session, which involved interactive lessons on GB values and trust-building exercises, and an afternoon session, which included quirky challenges.

"One of our core values is customer service, so one challenge required employees to go into the city they worked in, interact with GB customers, and obtain their business cards," Stacey said.

Other challenges, like one requiring staff to bring back a New Zealand \$1 coin or get a photo with a celebrity, were designed as fun ways to get people working together as teams, she said.

The team-building days offered different benefits for different business units. "For a high-performing team, it was an opportunity to ensure the group was functioning smoothly. For new teams, it was a chance to get away from the office environment, get to know each other, and begin to understand other team members' strengths and areas for development."

GB plans to incorporate some of the challenges into its induction program for new staff.

## Sporting prowess translates to **the corporate climate**



Harry Ellison with his sons Tom and James

**Less than three months into his new role as GB's General Manager - NSW, Harry Ellison has big plans to grow the company's profile and improve staff retention.**

He joined GB in March, succeeding Paul Easter, who has been appointed General Manager - South Australia.

“The main goal for me is to continue the great work that has already been done and grow GB's profile in NSW, including the general insurance side of the business. That side of our business is significant, but still relatively small compared to workers' compensation in NSW,” Harry said.

His background in cricket and Aussie Rules football has convinced him teamwork is the key to success for any organisation. “Staff retention is a

challenge across the industry and it's important we make sure everyone enjoys coming to work in a friendly, happy environment. I really enjoy the people I am working with and the challenge any organisation has of ensuring everyone heads in the same direction. We have to get the job done and be successful, as part of our many goals, but it's important people enjoy themselves while we are doing that.”

In his short time at GB, Harry has introduced staff drinks once a month and customer service awards and plans a team building event in August.

Harry has played cricket alongside former Australian hero Merv Hughes at Footscray Cricket Club, in Melbourne, and played first grade at the Randwick Cricket Club, in Sydney, during the early 1980s. He loves the sport, but won't pick up the bat again after retiring in a fashion Don Bradman could only dream about. “I retired in 2002 with a score of 101 not out, so I definitely won't be coming back. It was a nice way to go out.”

His other great sporting desires are fishing and Australian Rules football,

which he admits take up a lot of his time outside work. “Everyone's got to have a passion and mine's Aussie Rules.” He follows the North Melbourne Kangaroos and is involved in junior development for Pennant Hills Football Club, which plays in the premier division of the Sydney Football League.

His sons, Tom, 21, and James, 19, are both at the club. James is in the club's firsts while Tom is a runner for the seconds. His wife, Lynne, also follows Aussie Rules and works part time at a newsagent.

Before joining GB, Harry worked for Sydney-based medical service provider MLCOA. He has more than 30 years' experience in the insurance industry across various classes, including workers' compensation, which he says is his speciality.

GB's head of business development Peter Walker said he was “thrilled” that Harry had joined the GB team. “Having worked for a raft of insurers, including CE Heath, Heath Workers' Compensation, NRMA and IAG, he has a tremendous breadth of industry expertise,” Peter said.

## Nominations called for personal injury management awards



### Nominations have opened for the Personal Injury Education Foundation's (PIEF) inaugural Excellence in Personal Injury Management Awards.

PIEF Manager Nathan Clarke said the awards celebrated individuals and teams that demonstrated outstanding contributions to inspire others to improve the lives of injured workers, motorists and other personal injury management stakeholders.

The inaugural award categories are Excellence in Personal Injury Management, Student Excellence, Innovation in Personal Injury Management, and Outstanding Contribution by an Individual.

"This is the first time there's been a combined Australia and New Zealand award designed by people in the personal injury management industry for those working in the industry. We expect a flood of nominations before the June 30 due date," Mr Clarke said.

For more information on the awards, visit the PIEF website at [www.pief.com.au](http://www.pief.com.au).

Winners will be announced on October 20 during PIEF's Personal Injury Management Conference 2008 at the Sydney Convention Centre.

PIEF was established in early 2006 by a consortium of Australian and New Zealand accident compensation regulators, insurers and claims management organisations to create educational programs for people in the industry.

The not-for-profit organisation has members across Australia and New Zealand employed by workers' compensation regulators and insurers, motor accident compensation regulators and insurers, private insurers and claims management organisations. GB is a PIEF member.

## SA Government to overhaul WorkCover laws



by Paul Easter  
GB General Manager  
South Australia

### The South Australian Government is planning amendments to the state's WorkCover legislation that are designed to stem the scheme's current unfunded liabilities, estimated at \$911 million.

The proposed amendments bill is before the Legislative Council for debate and subject to many amendments. The SA scheme has the worst return-to-work rates of any scheme in Australia that has operated in a single-agent environment since July 1, 2006.

There has been a widespread advertising campaign by the union movement in an attempt to have some of the changes withdrawn or watered down. However, at this stage, the government is standing firm.

When the bill is eventually passed by both houses of parliament, some changes to the legislation will come into effect immediately and others will be delayed and/or subject to transitional arrangements.

Currently, the government sector is struggling to cope with claims management in the existing legislative environment and with existing internal resources. That has resulted in considerable current claims management work for GB in SA to support government agencies and many inquiries for future assistance.

Following enactment of the new legislation, there is bound to be a flurry of activity for claims management support to the government sector within different legislative environment timeframes.

GB in SA has developed a flier specifically designed to target the government sector and drafted a paper in readiness for the many opportunities that will certainly arise once the legislative changes are finalised.

Last year GB in SA won a place on the "Across Government Panel Contract" for providing audit and related services and has been steadily increasing its business to government agencies for claims management services, OHS and injury management audits and consultancy services.

## Six minutes a day reduces injuries and claims



Hospital staff stretch out to keep fit.

### An exercise and injury prevention program for hospital staff at St Vincents & Mercy Private, in Melbourne, is improving fitness, preventing injuries and reducing workers' compensation costs.

The program is part of a two-year research project, funded by WorkSafe Victoria, which aims to discover whether an integrated health and wellbeing program can be effectively rolled out across a large workplace.

St Vincents & Mercy Private has been working on the project in conjunction with Toni Ryan, Director of workplace health management group JointCare.

The program, which began in mid-2007, includes daily six-minute exercise sessions in each department and specifically targets strength and flexibility training sessions to prevent injuries. The program has been successfully adopted across seven departments at St Vincents Private and is now being introduced at Mercy Private.

"The hospital has totalled 56,000 minutes of work-break exercises in the past 10 months. It has turned out to be great for team building as well. Managers are exercising with new recruits and staff are running the sessions themselves," Ms Ryan said.

Susan Limbrick, Injury Manager at St Vincents & Mercy Private, said the hospital had been working with GB, as part of the project, to develop a return to work DVD that focused on three case studies of people who had been injured

and successfully reintegrated into workplaces. "Ultimately, we will end up with a DVD training manual that can go to other workplaces."

GB Client Relationship Manager Andrea McDonald, who is involved in production of the DVD, said she had been impressed with how quickly the hospital's staff had got involved. "Despite their large workloads, everyone is committed to the program. The difference with St Vincent's & Mercy Private is that the message is being driven from the CEO down; everyone's on board."

**"The number of injury claims lodged by hospital staff had dropped between 2006-07 and 2007-08 and the total value of claims had almost halved," Andrea said.**

"What St Vincents & Mercy Private has done sends a really good message. It creates an awareness in the workplace that early intervention and looking after yourself are important. If a large organisation like those guys can do it, anyone can."

Martin Day, CEO of St Vincents & Mercy Private, said: "Besides having a skilled and readily available workforce, the next most important factor is a fit workforce that has the physical capability to safely complete its tasks. Too often, the last element is overlooked yet it has immense benefits, including improved personal health and a happier workplace. I am a strong supporter of the program."

## Telstra Dome hosts GB client information day

**Almost 100 GB clients descended on Melbourne's Telstra Dome in late April to learn about upcoming changes to Victorian accident compensation legislation and hear from key industry speakers.**

GB Client Relationship Manager Andrea McDonald said the day aimed to provide information to clients in a personable way and allowed them to meet and network with GB staff and others in the industry.

Guest speakers included GB Senior Legal Manager Peter White; Australia Compensation Health Director Lino Magnano; and Vedior Asia-Pacific National Health, Safety & Injury Manager Greg Saunders.

Respectively, the topics included an overview of the Victorian Accident Compensation Act 1985, information on steps to reduce workers' compensation premiums, and discussion about what it took to be an effective, safety conscious employer.

Andrea said the Melbourne event was the first of many to be rolled out. "To have 100 people turn up to the information day was great. We didn't know what the response was going to be, but we actually had to cap numbers in the end, due to the overwhelming response we received."

GB will run ongoing client information days in Melbourne and Sydney each year and planning is in progress for a second information day in October.



# Mediation achieves cheaper claim solution



## A Welsh visitor, holidaying in Australia, was assaulted in a NSW nightclub and suffered significant brain injury.

Apart from the significant potential of the claim, there were enormous cost implications for GB's client, because the man lived overseas.

However, GB tailored a creative claim strategy and adopted a pro-active approach to ensure resolution on the best possible terms.

GB's client owned the nightclub. Staff included a bar manager. The plaintiff was at the club when an altercation occurred. He was escorted from the premises by the manager and assaulted and severely beaten. The manager was later charged with assault and sentenced.

The plaintiff issued proceedings against the club and the manager. The club was indemnified under its policy, but indemnity was denied to the manager because he had committed a criminal act. The plaintiff later discontinued proceedings against the manager, who had no assets.

The plaintiff underwent a comprehensive rehabilitation program. Neuropsychological assessments confirmed he suffered memory loss, had developed a speech impediment and suffered serious cognitive impairment. His employment prospects were poor.

The central issue for the nightclub was whether it would be held vicariously liable for the manager's acts. Would the assault be found to be so closely connected with the manager's authorised acts, that it would be considered a mode of doing the authorised acts? If so, the club would be found liable.

The manager's duties included escorting patrons from the premises, if required. The owners had explicitly instructed him to remove anyone causing trouble and he had done so before.

GB researched case law and obtained counsel's advice. GB concluded it was likely the connection between the assault and the manager's authorised acts was sufficient that a court would hold the club vicariously liable.

### Claims management strategy

The plaintiff's counsel successfully filed a notice of motion in the NSW Supreme Court for evidence to be heard in the United Kingdom. That meant sending a Supreme Court judge and counsel to the UK. GB's costs were estimated at more than \$200,000 and the plaintiff's at \$250,000. An extensive hearing in Sydney would then follow.

GB instead proposed mediation. It was arranged, but the plaintiff's solicitors would not settle without first discussing the issues with the plaintiff in person and determining whether he required a litigation guardian. The mediation was adjourned, with the plaintiff proposing it resume in London.

Instead, GB's solicitors filed a notice of motion for the mediation to resume in Sydney. GB agreed to pay for the plaintiff and his mother to attend. While that was expensive, it benefitted the defence because it would reduce costs if the matter could be resolved and meant the plaintiff would be more inclined to settle. The judge ordered the mediation to resume in Sydney.

### Outcome

At the mediation, the plaintiff's counsel estimated his client's damages at

\$2 million. After offers were put, GB conferred with the plaintiff's mother, who outlined how her son's behaviour and personality had changed because of the brain injury.

At GB's request, the plaintiff agreed to confer privately with GB's claims examiner and legal representative. The claims examiner saw firsthand how the plaintiff presented; he was slow to respond to questioning and unconfident.

He stuttered, failed to understand straightforward questions, gave short answers and provided answers unrelated to the questions. He gave evidence he had begun suffering from fainting episodes. His anxiety and lack of clarity would convey some level of cognitive impairment in the witness box.

After long negotiations, the parties agreed an appointment with a neurologist would proceed, irrespective of whether settlement was achieved. GB offered to disclose its unserved medical reports, if a settlement figure could be agreed in principle.

Settlement was agreed for \$750,000, including costs. The medical reports were exchanged and the settlement became binding.

The result was extremely pleasing, as the plaintiff would likely have been successful on liability and his quantum assessment was significant. More importantly, by taking a proactive, creative approach, GB avoided the enormous costs of a hearing overseas.

### Knowledge gained

The value of thinking ahead, predicting the other party's next procedural move and planning a counter strategy.

The benefit of mediation and direct face-to-face contact with a plaintiff - the opportunity to gain firsthand how a plaintiff will appear in court.

The meaning of true negotiation - being fair and transparent with a plaintiff.

The alternative approach of spending money upfront to achieve overall savings.

The value of taking control and leading the parties to resolution.

# Diploma group helps ‘halt the churn’



The group from left to right, Diana Stevanovski, Shane Simmonds, April Joyce, Meredith Coffey and Alex Vichidvongsa.

**Five Victorian GB employees studying towards a Diploma in Personal Injury Management have developed a presentation aimed at halting staff turnover in the industry, colloquially known as “the churn”.**

The group was invited to showcase their ‘Halt the Churn’ presentation to a GB special interest forum in Brisbane in June.

The presentation began as an assignment that fulfilled the fourth and final requirement of the diploma, run annually by DeakinPrime, in Melbourne.

GB Learning & Development Manager Bobbie Patel said the group’s presentation investigated what practical steps companies in the workers’ compensation industry could take to improve staff retention.

The five GB claims managers completing the diploma in 2008, Alex Vichidvongsa, Meredith Coffey, Diana Stevanovski, April Joyce and Shane Simmonds, then presented their research into steps that GB specifically could take to retain staff to a senior management group that included GB Managing Director Jon Winsbury.

Bobbie said the claims managers suggested obtaining feedback from our staff throughout the course of their employment (rather than during an exit interview) so that we are continuously improving as a business and retaining our staff.

“The group came up with some great ideas. They also suggested improving the company profile on the GB website to put more focus on the funding, reward and recognition programs for GB employees. We were really impressed.”

“If we decide to pick their ideas up, the diploma group will definitely be involved,” Bobbie said.

This year was the first time the ‘halt the churn’ presentation had been introduced as a diploma module.

**“Workers’ compensation is a stressful environment so people move around a lot. The module looked at what could be done to prevent that,” Bobbie said.**

Other diploma assignment topics include leadership, mentoring and coaching new staff. The diploma is taught primarily through workshops at Victorian WorkCover premises. GB accepts requests from staff each year and pays for selected “future leaders” to undertake the eight-month program, Bobbie said.

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