

**THE LAW SOCIETY
OF SOUTH AUSTRALIA**

THE VOICE OF THE SOUTH AUSTRALIAN LEGAL PROFESSION

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14 October 2010

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JM;rp

Mr R Thompson
Chief Executive Officer
Workcover Corporation
GPO Box 2668
ADELAIDE SA 5001

Dear Sir

I have been asked to express concerns raised by the Law Society Accident Compensation Committee (ACC).

In June 2010, members of the ACC met with Jeff Matthews and John O'Loughlin inquiring as to future redemption policy and particularly where common law recovery rights exist. The view expressed by ACC members at that meeting was that certainty needed to be promulgated by Workcover as soon as possible.

ACC members understood from the meeting that the Board would likely meet on 22 July 2010 to address Policy and issue Guidelines which would be circulated as to Redemption Policy and Recoveries.

The ACC now understands that the Policy and Guidelines have yet to be resolved and that the matter is to be further discussed at a Workcover Board meeting on 21 October 2010.

In the meantime:

1. Common law settlement conferences have had to be adjourned pending clarification.
2. Some workers have delayed the issue of proceedings because of uncertainty as to recovery policy and the status of recovery policy vis-à-vis the continuation of their claims.

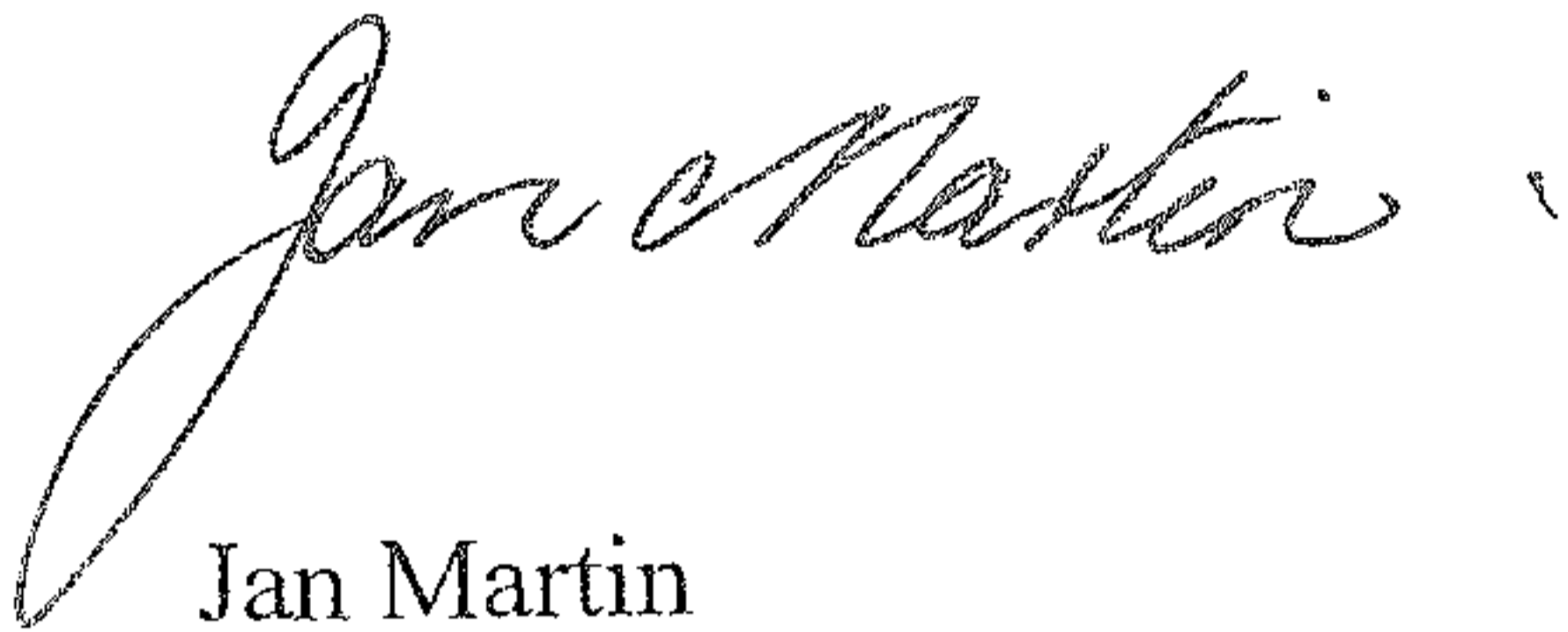
Both of these matters delays receipt by Workcover of recoveries. Further, it is in the interest of all litigants to resolve a settlement where the parties are able to achieve a settlement promptly and without incurring greater costs because of uncertainty as to the law or delay. Therefore, whilst Workcover Policy and Guidelines have not yet been promulgated, access to justice is delayed and the Court List is not reduced, but increased, therefore affecting the conduct of other matters.

Unless Workcover Policy and Guidelines are issued promptly, there will no doubt need to be applications filed before the Court seeking to adjourn trials which would not otherwise have been adjourned.

Exempt employers have indicated that since 1 July 2010 they have been able to exercise their recovery rights by implementing a policy to allow a settlement to proceed with the extent of the recovery then being satisfied and the future path of the worker's Workers Compensation claim resolved by that settlement.

It is therefore urgently submitted that it is very important for the Workcover Corporation to cure the current uncertainty caused by the failure to indicate Workcover Policy and Guidelines as to its recovery interests, the claim generally and Redemption Policy.

Yours faithfully

A handwritten signature in cursive script, appearing to read "Jan Martin".

Jan Martin
EXECUTIVE DIRECTOR