



2022

Year in Review



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Insurance Law Global



@InsLawGlobal



Year in Review 2022

WHO WE ARE

Launched in November 2016, Insurance Law Global has bases in 38 cities across 11 countries.

The network's independent law firms collaborate to help clients respond to challenges presented by globalisation and the increasingly dynamic political and environmental landscape.

Members include Weightmans in the U.K.; Blaney McMurtry in Canada; Ekermans Advocaten in the Netherlands; AGB in Mexico; Marshall Dennehey in the U.S.; Carter Newell Lawyers in Australia; Howse Williams in Hong Kong; López-Ibor Abogados in Spain; and Lebuhn & Puchta in Germany.

EXPANDING NETWORK

Insurance Law Global welcomed three new member firms in 2022, expanding our footprint in Europe and into Asia. In April we welcomed Howse Williams, a full service law firm in Hong Kong, and Lopez-Ibor Abogados, a business law firm in Spain. Both have strength in the insurance sector with a strong focus on business law. In November, German firm Lebuhn & Puchta joined the network, bringing experience across a broad range of insurance fields focused on commercial and industrial risk.

"As our insurance clients' needs continue to grow globally, we have been looking to further expand in Europe and into Asia. We are pleased to offer our clients the resources and capabilities that these three exceptional law firms bring," said Kieran Jones, partner at Weightmans and a member of ILG's Board of Directors.

Howse Williams is one of the largest, independent, full service law firms in Hong Kong with 30 partners, four consultants and approximately 200 staff members. The firm offers strategic advice drawing on the partners' many years of experience as practitioners in the Asia-Pacific region. Its diverse international clients include insurance and reinsurance companies, brokers, Lloyd's syndicates, corporate and individual policyholders, administrators and liquidators. David Coogans and Chris Howse will serve as the lead ILG contacts.

López-Ibor Abogados, headquartered in Madrid with an additional office in Valencia, specializes in business law. The firm's multidisciplinary team of more than 40 lawyers has a strong international profile and is recognized for its in-depth knowledge in the insurance and other legal sectors. López-Ibor Name Partner, Alfonso López-Ibor, and firm Co-Managing Partner, Marta Gil de Biedma, will serve as the lead ILG contacts.

Lebuhn & Puchta acts for clients across a broad range of insurance fields focused on commercial and industrial risk, and is internationally recognized for its expertise. The German firm's case work experience includes matters of construction insurance, property insurance, liability insurance and D&O, as well as matters involving the wide range of marine policies. In addition to its activity in the insurance sector, the firm has a significant footprint in the German reinsurance sector, acting for a number of major reinsurers in very large cases.



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SAVE THE DATE
ILG ANNUAL LONDON CONFERENCE
15 March 2023

One America Square Conference Centre

We look forward to seeing you in London at One America Square Conference Centre on the 15 March 2023 for ILG's Annual Conference. Speakers from ILG member firms will share jurisdictional insights on current topics in international claims and insurance litigation.

Visit insurancelawglobal.com for more information.

Member Quick Facts



Founded in 1962 in Philadelphia, Marshall Dennehey is a leading civil defense litigation law firm with nearly 500 attorneys in 19 offices across 7 states. The firm's attorneys advise, represent, and defend insurers and their insureds, self-insured businesses and professionals in a wide range of casualty, professional liability, health care, employment and workers' compensation matters.

Weightmans' is a national team of 400 insurance lawyers headquartered in London and provides highly responsive solution driven expertise to leading insurers, the London Market, insurance related intermediary organisations and counts numerous 'household names' self-insured organisations amongst its clients.



Weightmans



Founded in 1954, Blaney McMurtry is a multi-service law firm of more than 125 lawyers located in Toronto, Ontario. Ranked for its industry leading expertise in litigation & advocacy, real estate and business law, the firm is also known and respected across Canada for its depth in insurance law.

With offices in Madrid and Valencia López-Ibor Abogados specialise in business law. For the past 20 years Lopez Ibor have positioned themselves as a leading firm both nationally and internationally.



LOPEZ-IBOR ABOGADOS



Lebuhn & Puchta was founded in 1950 as a traditional law firm for the shipping industry and firmly anchored since then in the maritime industry, Lebuhn & Puchta are known throughout the world.

Member Quick Facts



Carter Newell is an award winning specialist law firm that has one of the largest specialist insurance practices in Australia. Carter Newell is one of the only practices in Australia to be a market leader across property, contract works, professional indemnity, D&O, cyber risk, public and product liability, environmental liability and aviation.

Adame Gonzalez de Castilla & Besil ("AGB") is a boutique firm headquartered in Mexico City. It's insurance practice is best known for its strong knowledge and specialization in claims and insurance dispute resolution matters.



Ekelmans Advocaten are an established and well respected law firm in the Dutch insurance market. They pride themselves on their long lasting relations with national and international insurers and their insureds, helping whenever their business meets legal challenges.

Howse Williams is an independent, full service, Hong Kong law firm. Howse Williams' insurance team acts for underwriters, brokers and intermediaries, principally regarding policy issues and coverage disputes as well as personal injury and employee compensation claims.





Learn more at www.agb.mx

MEXICO



BACKGROUND

Adame González de Castilla & Besil (AGB) houses a 'young but experienced' team which is gradually gaining a solid presence in the Mexican market. Fronting the practice, which boasts a high level of specialisation in both corporate and regulatory matters and claims and dispute resolution matters, are founding partners Álvaro Adame and Ramiro Besil. Regarded as two 'extraordinary lawyers', the duo complement each other in their areas of expertise.

AREAS OF EXPERTISE

AGB's legal staff have provided legal advice, defence and representation for insurers and reinsurers in milestone cases. Such cases include a case where two aircraft accidents owned by the Mexican Government in which top level Mexican officials lost their lives - one of them with multiple ground victims; damages caused by fire to offshore drilling units operating in Mexican waters; vessel collisions; sinking and groundings; earthquake damages to buildings; and major infrastructure projects and claims excluded under terrorism exclusions.

The team has acted on behalf of insurers and reinsurers on numerous matters. The team has also represented insurers in coverage disputes involving General Liability, Products Liability, Fire, Business Interruption, D&O, E&O as well as in subrogation and recoveries against carriers, contractors, third parties.

AGB have also assisted its insurers with their Regulatory, Organizational, Operational and Transactional requirements, Product Development and Establishment in Mexico.

EXPERIENCE:

- AGB represented local insurers of a Cargo Terminal in a recovery for damages to the terminal's pier due to collision by a vessel.
- Acted for a local insurer in a cargo claim from the alleged cargo owner in a coverage dispute derived from the theft of the full cargo; AGB obtained a favourable judgment on the basis of an innovative interpretation of insurable interest under Mexican Law.
- Represented a local insurer in a series of property cases claiming excessive indemnities derived from damages caused by major earthquake in Mexico, successfully obtaining a substantive reduction in the damages awarded.
- Acting for a Mexican subsidiary of a foreign insurer defending the termination of an insurance contract due to the misrepresentation by the insured.
- Acting on behalf of insurers of a credit facility as co-defendants against a claim from the credittee for the alleged breach of contract from the creditor.

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Blaney McMurtry LLP 2022 Articling Students



BACKGROUND

Founded and based in the heart of Toronto's financial district almost 70 years ago, Blaney McMurtry is one of Canada's premier law firms.

Blaney McMurtry has one of Canada's largest team of insurance coverage specialists. The firm's Coverage Group specializes in insurance policy interpretation, drafting, dispute resolution and coverage litigation. The Coverage Group has a wealth of experience interpreting all types of insurance policies including: Commercial Lines, Errors and Omissions, Directors and Officers, Fidelity, Cyber Risk, Commercial Property, Environmental, Professional Liability, Employment Practices, Product Liability, Personal Lines, Excess Umbrella Lines, Boiler & Machinery, Business Interruption and Manuscript forms.

As for advocacy, Blaney's Insurance Defence team members are peer-recognized as leaders in their fields. They know what insurers need when it comes to claims: early attention and confident assessments, practical advice, creative and timely resolutions, and a track record of success in the courtroom. Blaney McMurtry has the skill and experience to handle the largest and most complicated matters. It also has the bench strength, flexibility and file handling systems in place to handle a substantial volume of claims.

The Cyber, Information and Privacy Risk Group further continued its work, providing sound and proactive advice in respect of cyber-related events and claims.

CANADA

AWARD WINNING LAWYERS

We are proud of the industry recognition that Blaneys has received, including the following:

Insurance Defence Litigation rankings:

- Canadian Legal Lexpert® Directory: "Most Frequently Recommended" - Litigation - Commercial Insurance: Toronto, Ontario
- Canadian Legal Lexpert® Directory: "Repeatedly Recommended" - Litigation - Product Liability: Toronto, Ontario
- Canadian Legal Lexpert® Directory: "Repeatedly Recommended" - Professional Liability: Toronto, Ontario

Other Insurance Rankings:

- Two of our insurance partners were *Lexpert®* ranked as leading litigation lawyers in the *Lexpert® Special Edition: Litigation 2022*
- Blaney McMurtry was recognized by The Globe and Mail as one of Canada's Best Law Firms 2023 in the category of Insurance (2022).
- In Chambers Canada, Blaneys is ranked in the area of "Insurance: Dispute Resolution" - Canada Nationwide, with respondents stating: "the firm has the resources to handle the large and complex files." The firm's insurance practice is recognised for its experience advising on a broad array of coverage disputes and insurance litigation matters. Clients describe the group's experience and knowledge as "impeccable".

Blaneys was also ranked in other areas of practice in the areas of litigation & advocacy, real estate and business law.



LEGAL INSIGHTS

Good Strategies for Bad Faith and Moral Damages Claims

Accusations of Bad Faith can arise in many different types of insurance claims. Sometimes insurance claims handlers and adjusters can find themselves dealing with claims for punitive damages or moral damages made against themselves or their insured. Blaney McMurtry lawyer, David Leck, this year presented a webinar on strategies for bad faith and moral damages claims. In a webinar held earlier in the year, insurance lawyers from Ontario, Saskatchewan and Newfoundland & Labrador covered strategies for preventing Bad Faith claims and how to respond when a claim is made. The webinar was broken into two parts dealing with bad faith claims against insurers and employment law claims.

Part 1 – Bad Faith Claims Against Insurers

What is Bad Faith and what are the insurer's obligations to their insured?

- How insurers can prevent accusations of Bad Faith and steps to take if a Bad Faith claim is made in:
 - Property loss claims
 - Disability claims
 - Personal injury claims
- Punitive damage awards for successful Bad Faith claims

Part 2 – Bad Faith Claims In Context: Employment Law Claims

What types of bad faith claims are most frequently encountered in employment law claims against employers? Defending against bad faith claims against employers and strategies for reaching a resolution.

Watch it in full: www.rmc-agr.com/publication/good-strategies-for-bad-faith-and-moral-damages-claims-webinar-recording

Handling MVAs Involving Minor and Incapacitated Claimants

Handling a typical MVA claim is routine for most insurance adjusters and claims handlers. But what happens when the accident involves an injured minor or someone incapacitated? Presented in a webinar, Blaney's Anna Iourina along with other leading experts reviewed the key differences in the claims settlement process and the steps to take at the outset, during the claims settlement process, and when an agreement is reached.

Key topics covered in the webinar include:

- The Minors Property Act and Litigation Representatives
- Assessing damages
- How contributory negligence changes assessments
- How parents/guardians named as 3rd parties impacts the litigation
- Questions to ask during discovery of litigation representative
- How to conduct examinations with a minor
- When and how to declare someone incapable
- Limitation Periods for claims involving minors
- Court approval process for settlements in Ontario, Alberta, and BC

Watch it in full: www.rmc-agr.com/publication/handling-mvas-involving-minor-and-incapacitated-claimants-webinar-recording/

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Carter Newell employees at the Boarders Dinner 2022

Carter Newell

BACKGROUND

Carter Newell Lawyers is an award-winning specialist law firm providing legal advice to Australian and international corporate clients. Our firm and insurance practice was founded in 1989 and we are proud to celebrate 33 years of experience and service to our insurance clients. As a National insurance practice, with offices in Brisbane, Sydney and Melbourne we continue to act for Australian and overseas insurance companies and syndicates, on some of the most significant and complex claims in Australia and offshore.

Our specialist practice areas include class actions, directors' & officers' liability, professional indemnity, contract works & DSU, ISR, employment practices liability, aviation, environmental offences, cyber risks and products liability. We have greatly contributed to the body of jurisprudence in relation to insurance policy flood exclusions, having acted for the defendant insurer in the two most recent Australian decisions on the operation of an insurance policy exclusion for 'flood' being the QSC decisions in *Wiesac & Anor v Insurance Australia Group Limited* [2018] QSC 123 and *Landel Pty Ltd & Anor v Insurance Australia Ltd* [2021] QSC 247. We attribute our continued success to the strong relationships we hold with our insurance clients and the outstanding staff we employ, each of which is dedicated and committed to every aspect of the business and who have built up extensive experience in their particular specialist insurance practice area.

AUSTRALIA

33 YEARS AND COUNTING

In 2022 Carter Newell Lawyers celebrated 33 years since opening. The 33 year anniversary also coincided with the company's Boarders Dinner celebrations which recognises people who have worked with the firm for more than 2600 days.

PURSUING EXCELLENCE

Carter Newell was once again recognised as a leading law firm, recognised in Doyle's Guide as a *Leading Public & Product Liability Law Firm (Defendant)*, *Professional Indemnity Law Firm*, and *Medical Negligence Law Firm (Defendant)*.

Also recognised was Rebecca Stevens as a preeminent Leading Public & Product Liability Lawyer, Mark Brookes as a Leading Professional Indemnity Lawyer, and Michael Gapes as a Leading Professional Indemnity Lawyer and Medical Negligence Lawyer.

The firm was also recognised with the Queensland Law Society's *Excellence in Law Awards - Workplace Culture and Health Organisation* for its work with promoting a positive workplace culture that cultivates and supports diversity and inclusion. The firm made a commitment to improve D&I by implementing key initiatives aimed at addressing the barriers and stigmas faced by first nations people, the LGBTIQ+ community, mental health, and disability.





Carter Newell Lawyers receives "Workplace Culture and Health Award" from QLS Excellence in Law Awards

LEGAL INSIGHTS

Concussions in Sport - Causation and Risk management in the Spotlight

Worldwide presentation Concussion in Sport - Causation and Risk management was recently in the spotlight. In conjunction with ILG member firms, partners Rebecca Stevens (*Carter Newell Australia*), Jonathon E. Cross (*Marshall Dennehey, USA*) and Bruce Ralston (*Weightmans, UK*) discussed the latest developments and caselaw from Australia, the USA and UK and analysed further research into the impact and the development of prevention and risk management strategies.

Read more at [by clicking here to view](#)

Occupiers Liability - Revisiting what is a Foreseeable Risk

Occupiers of commercial premises are regularly and rightfully held to a high standard to avoid foreseeable risks of injury to entrants. Notwithstanding occupiers regularly face arguments which treat this standard as one akin to a strict liability. A recent decision of the NSW District Court *Devic v AMP Capital Investors Limited* [2022] NSWDC 371 highlighted the importance of the foreseeability test particularly where there are no prior reported incidents or complaints about the hazard and the hazard was adequately highlighted.

The risky business of dangerous recreational activities

In *Tapp v Australian Bushmen's Campdraft & Rodeo Association Limited* [2022] HCA 11. The High Court of Australia handed down a judgment concerning duty of care, breach and obvious risks within the context of dangerous recreational activities. At both first instance and on appeal in the New South Wales Court of Appeal, the plaintiff failed in her action for damages.

On appeal to the High Court a slim majority (3:2) overturned the lower court decisions and found in the plaintiff's favour, awarding damages in the amount of \$6,750,000. The case provides insight into the court's approach to dealing with the probability of harm when engaging in risky pursuits, identification of risk and the obviousness of risk.

What does it take to prove who lit the match?

Insurance fraud in Australia has been estimated to cost up to \$2.2 billion every year according to the Insurance Fraud Bureau of Australia, and with the impact of COVID-19, the expectation is this will increase. COVID-19 has placed increased financial pressure on a range of business sectors from reduced patronage, increased materials costs, labour shortages and broken supply chains, creating a 'fertile breeding ground for fraud.'

Insurance fraud can take many forms, from exaggeration of loss to deliberately causing the loss, such as in cases involving arson. Proving fraud, however, can be difficult. There is usually no 'smoking gun', and insurers are often left to gather what circumstantial evidence they can in the hope the weight of the evidence will tip the scales in their favour. This issue was recently considered by the Supreme Court of Queensland in *Cassa Bedding Pty Ltd v Insurance Australia Ltd* [2022] QSC 1.

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Ekelmans Advocaten | Insurance & Liability Team



BACKGROUND

Ekelmans Advocaten Insurance & Corporate is an independent law firm in the Netherlands with around 25 lawyers and an international focus. Our firm can draw on a wealth of experience and expertise; clients have been benefitting from this for over a century.

At Ekelmans Advocaten we provide comprehensive insurance and corporate law services. We have decades of experience in the insurance industry working with both domestic and international insurers. We focus on the areas of law that are relevant to our insurer clients, such as general insurance, liability, health and life.

We are one of a few firms in the Netherlands that offer extensive support to health care insurers. Ekelmans Advocaten also gives advice and conducts litigation in corporate law in all its facets.

The links between our transactions practice (Mergers & Acquisitions) and litigation practice (Corporate Litigation) allow us to give you maximum support around the negotiating table and in the law courts.

In 2021 we officially became the Dutch Association of Insurers' expert partner.

The insurance & liability team

Our Insurance and liability team represents most of the major international and Dutch listed insurance companies (liability, health and life) and represents clients in several of the largest and most reputable cases in the insurance industry.

NETHERLANDS

The insurance & liability team consists of 15 experienced lawyers exclusively dealing with insurance issues. The lawyers give practical and highly valued advice based on in depth knowledge and experience in professional liability, D&O, technical insurance, personal injury, health insurance, life insurance, fraud and insurer related privacy issues. The team is headed by super specialised partners. Insurers seek their advice on complex and politically sensitive matters in healthcare insurance, liability, fraud and privacy.

TRIAL AND APPELLATE RESULTS

Personal data indispensable when providing a service

We recently advised and assisted the Dutch Association of Insurers as well as the largest Dutch insurers (both general as well as health insurance companies) on how to achieve the most effective commercial use of (high sensitive) personal data while still being fully compliant to the EU's privacy legislation - General Data Protection Regulation (GDPR).

Due to severe GDPR-restrictions to process personal data, Dutch insurers are highly impeded in managing their claims and risks. The boards of the largest insurance companies sought our advice on overhauling their internal operations regarding processing massive amounts of personal data, in order to diminish the risks of claims and to improve the estimate of premiums.

Our assistance leads to huge commercial advantages and cost savings in a fully GDPR-compliant organisation.





[Learn more at Ekelmansadvocaten.com](https://www.ekelmansadvocaten.com)

Material control and fraud investigation

We acted on behalf of a health insurer who launched criminal and civil proceedings against a health care provider who inflated the number of hours of care provided to its patients. While investigating the alleged fraud, there was evidence of poor administration which prevented the health insurer from determining whether the care that was recorded as having been provided was necessary or if it actually ever took place or if it was covered.

Owing to the facts of the case thus far it can be determined that the health provider has been involved in committing long-term fraud against its clients and the insurer. This is a prime example of the types of cases we handle when it comes to material control and fraud investigations.

Complex D&O claims

We have acted and currently act as counsel and monitoring counsel on a substantial number of claims and coverage disputes on director and officer liability policies.

Among the claims we are handling are claims against the board of directors of a large group of companies of car dealers, a claim against the director of large cold stores and a claim against the director of one of the largest groups of abortion clinics.

All three companies were declared bankrupt. The bankruptcies of the car dealership and the abortion clinic were widely published and – in the event of the abortion clinic – discussed in parliament as well. The bankruptcy of the company of cold stores led to disputes with one of the largest Dutch Banks at the time of its initial public offering at the stock exchange. Each case requires focused attention to the causes of the bankruptcies. We often achieve results in out-of-court settlements, and are negotiating settlement on two of the claims and recently settled the third one.

While these three cases illustrate the broad and in-depth experience of our team in handling complex D&O claims, they are in fact only the tip of the iceberg. We deal with D&O claims in several areas of economic activity and with teams aligned for the specific kind of dispute.

RANKINGS 2022

Legal 500 about our team: Noted for its international focus, the team at Ekelmans Advocaten – Insurance & Corporate has many years of experience handling a wide variety of liability and insurance law issues for clients. It provides a range of services to large and niche insurance companies, such as advice on compliance with financial regulations, assistance with privacy-related questions and policy wording. In addition, with the group comprising of seasoned Supreme Court litigators, it is also a strong choice for complex insurance claims; areas of expertise in this space include professional liability, fraud, D&O and personal injury.

Chambers Europe about our team: Ekelmans Advocaten offers renowned expertise in litigation and has a long track record advising on high-profile cases before the Supreme Court. The team is well known for its experience regarding healthcare insurance matters, while the contentious side of the practice covers professional, D&O and general liability concerning construction, property and marine damage. One client highlights that the firm’s team is made up of “smart people with a lot of knowledge who are still really friendly and social.”

STAY IN TOUCH

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Howse William Lawyers 2022

HONG KONG



BACKGROUND

Howse Williams is one of the top 3 independent law firms in Hong Kong. We are a full service firm acting for clients in every industry sector. The partners have spent the majority of their careers in Hong Kong and have a detailed understanding of international business and business in Asia. The firm currently has 33 Partners and a total staff of approximately 200.

PRACTICE AREAS

As a full service firm, Howse Williams practice areas include:

Insurance; personal injury and professional indemnity insurance; commercial and maritime dispute resolution; clinical negligence and healthcare; corporate/commercial and corporate finance; employment; family and matrimonial; trusts and wealth preservation; wills, probate and estate administration; property and building management; banking; fraud; distressed debt; financial services/corporate regulatory and compliance.

The firm also has the largest professional indemnity practice in Hong Kong and is widely recognized as a market leader in this field.

The firm's healthcare team has unrivalled expertise in medico-legal and pharmaceutical markets in the region. The firm also has a well-established personal injury practice and a leading shipping and international trade team advising clients on insurance matters.

INSURANCE

"A substantive practice and a good reputation" Insurance client testimonial in Chambers and Partners 2022.

"Professional, practical and commercial approach to solving legal issues." Insurance client testimonial in Chambers and Partners 2022.

We act for underwriters, brokers and intermediaries, principally regarding policy issues, and coverage disputes as well as personal injury and employee compensation claims.

Our core practice areas include: admiralty insurance; asset and structured finance; business interruption insurance; corporate and regulatory insurance; directors' and officers' liability insurance; event insurance; general insurance and reinsurance; international trade; P&I insurance; personal injury; professional indemnity and shipping. We provide a full service in respect of insurance and reinsurance matters, including policy drafting and interpretation, coverage issues, contracts, regulatory advice and crisis management.

Our diverse international clients include insurance and reinsurance companies, brokers, Lloyd's syndicates, corporate and individual policyholders, administrators and liquidators. To best assist our clients, we leverage our in-depth knowledge in drafting and interpreting policy terms as well as handling non-marine and marine insurance and reinsurance disputes in litigation, arbitration and mediation. We are accustomed to working with liquidators and administrators in the insurance industry when they encounter financial difficulties.



HW NEWS IN 2022

New Partners

In 2022 we expanded our real estate practice with the addition of Alan Yip from an international law firm. We also added a distressed debt team headed by Janie Wong, following the closure of Addleshaw Goddard's office in Hong Kong. We expanded the firm's regulatory and corporate practices with the addition of William Wong and Anthony Chan respectively, both of whom joined from international law firms.

Our insurance and personal injury practice was enhanced with the addition of Gary Chow from an international insurance firm in Hong Kong. We also promoted four Senior Associates to Partner: Hiu Yee Chung (dispute resolution); Carmen Fung (clinical negligence and healthcare); Victoria Ng (family & matrimonial) and Stephanie Ng (family & matrimonial).

Expanding

The firm entered into an Association with Shu Jin Law Firm (Hong Kong) to enhance and expand our China practice and services on PRC legal matters, particularly in the Greater Bay Area.

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Lebuhn & Puchta (L-R): Dr Ulrich H. Stahl, Dr Dieter Armbrust, Dr Johannes Trost



LEBUHN & PUCHTA

BACKGROUND

Founded in 1950 as a traditional law firm for the shipping industry and firmly anchored since then in the maritime industry, Lebuhn & Puchta are known throughout the world.

The main focus of the firm's work lies in the fields of maritime business law, corporate law, M&A and insurance law. We also have very substantial experience in the areas of logistics and transport (including aviation and inland waterways shipping), international trade as well as renewable energy and plant construction.

FOCUS ON INSURANCE

We advise our clients in all areas of commercial insurance and re-insurance, especially on the Scandinavian and London insurance markets, e.g. on property insurance, liability insurance, D&O insurance and business interruption insurance. We advise and assist our clients in drawing up terms of insurance.

Our insurance practice is known particularly for defending claims both in and out of court, and for asserting claims in complex, often cross-border, high-value insurance cases (e.g. marine casualties, aviation accidents, serial damage, insured occurrences covered by fire and project insurance, yacht hull damage, business interruptions, and closure of businesses in connection with the COVID 19 pandemic).

GERMANY

EXAMPLE INSURANCE CASES

- We have acted for fire insurers in legal proceedings to defend claims arising out of a major fire at a recycling plant.
- We have advised clients in connection with brokers' liability following a denial of cover by the insurers.
- We have provided comprehensive advice in relation to the establishing and licencing of a new German insurance company.
- We have advised a client in relation to the provision of security by hull insurers following damage to a port crane.
- We have advised the liquidator in a case involving a claim under a D&O policy resulting from payments made after the company had become unable to pay its debts.
- We have advised insurers on the London market in connection with coverage claims under a non-marine builder's risk insurance policy.
- We have advised German insurers regarding claims under a builder' risk policy for a mega yacht.

STAY IN TOUCH

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López-Ibor Abogados 2022

SPAIN

LOPEZ-IBOR

ABOGADOS

BACKGROUND

López-Ibor Abogados, headquartered in Madrid with an additional office in Valencia, specializes in business law. The firm's multidisciplinary team of more than 40 lawyers has a strong international profile and is recognized for its in-depth knowledge in the insurance and other legal sectors.

CORPORATE SOCIAL RESPONSIBILITY

López-Ibor Abogados is firmly committed to being a socially responsible company. It is a long-term strategy, a culture that permeates the entire firm and whose purpose is not only to serve society, but also to improve the lives of our lawyers. Part of the actions we carry out are PRO-BONO actions, providing free advice to facilitate access to justice and give voice to those who do not have one.

But they are not the only actions that we develop; We are also committed to training our professionals through training sessions to raise awareness, and we sponsor solidarity activities and events. Part of our business philosophy and CSR policies is to identify the impacts that we can produce on the environment in order to prevent them and mitigate their possible consequences, applying environmental criteria in all planning and decision-making processes in those issues that affect the environment.

RECOGNITION

López-Ibor has been recognized as a leading full-service firm by the most prestigious international rankings such as Chambers & Partners, Legal 500, IFLR100, World Tax and Best Lawyers.

LI NETWORK

LI Network is a business unit of López-Ibor that offers specialized insurance advice. The network has lawyers who are experts in the insurance field and in the defense of claims in commercial court proceedings.

The unit offers advice on all types of lawsuits in insurance law and professional civil liability matters as well as comprehensive advice to the operators involved in the insurance sector (insurers, underwriting agencies, agents, insurance brokers, etc.)

LI network offers the following services in Spain:

- Lawyers who can intervene throughout Spain.
- LI Management Software Platform where clients have access to files.
- Expert lawyers who coordinate a high number of court records.

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Marshall Dennehey celebrating 60 years in 2022



CELEBRATING 60 YEARS IN 2022

Marshall Dennehey, an Am Law 200 firm and one of Pennsylvania's largest law firms, celebrated 60 years in business in 2022.

Founded in 1962, the firm has grown to become a civil defense litigation powerhouse recognized for the strength of its trial attorneys and litigation bench. Today, Marshall Dennehey has nearly 500 attorneys in 19 offices spanning seven states, and serves a lengthy roster of some of the country's largest insurance carriers and their insureds, professionals in all disciplines, and small to Fortune 500 businesses.

In celebration of the anniversary, the firm developed the initiative, "60 Charities for 60 Years – Let's Give Back Together." Employees across the firm's 19 offices were invited to submit the name of a favorite local charity, with a short explanation of its mission and importance to the employee. Sixty charities were selected and each received a \$1,000 donation from the firm in that employee's honor.

"We wanted to not only celebrate our employees, but at the same time, give back to the communities where we conduct business," said Mr. Thompson. "The response was overwhelming and it was difficult to select only 60. In the end, it feel great to support these worthwhile organizations and we also learned a lot of wonderful things about the people who work here."

UNITED STATES

MD OPENS OFFICE IN NEW HAVEN, CT

Marshall Dennehey opened a new office in New Haven, Connecticut on March 1, 2022, appointing Charles T. Gura, a shareholder in the firm's Health Care Department, as the office's managing attorney. The firm had been servicing clients in Connecticut for the past eight years, primarily from Westchester County, New York office.

MARSHALL DENNEHEY COMBINES FORCES WITH DELANY LAW

In October 2022, Marshall Dennehey announced that the firm had joined forces with the attorneys and staff of the Philadelphia-based litigation boutique, Delany Law. Helmed by veteran trial attorney Jack Delany, the union brought three shareholders, one special counsel, one associate, two paralegals and an experienced group of support staff to Marshall Dennehey's Philadelphia and Mount Laurel, New Jersey, offices. All of the attorneys practice in the firm's Casualty Department.

"We are delighted to welcome the attorneys and staff of Delaney Law to the firm," said G. Mark Thompson, Marshall Dennehey's President & CEO.

"The pairing affords Marshall Dennehey exceptional trial talent and greater bench strength in Pennsylvania, New York and New Jersey while providing the lawyers and clients of Delany Law the opportunity to capitalize on the resources and efficiencies that we can provide as one of the country's largest defense litigation firms."





Marshall Dennehey Advanced Trial Advocacy Mock Trial Program Participants

INSURANCE CASE FOCUS

Promissory Estoppel Claim does not survive summary judgement

MD were able to obtain a summary judgment for an insurance carrier client that had been sued by another insurance carrier for more than \$1.6M in damages arising out of a fire loss. The opposing insurance company had paid \$1.6M in damages and intended to pursue a product liability claim against a vehicle manufacturer, alleging that a defectively manufactured vehicle had caused the fire to an auto repair facility. Our client insured the vehicle that was allegedly defective.

After the insurance companies conducted a preliminary expert evaluation, the vehicle was destroyed by a salvage yard in the normal course of business. A claim was made against our client for promissory estoppel where it was alleged that the vehicle was destroyed despite a promise to preserve.

The Court of Common Pleas of Erie County rejected the claims against our client and agreed with our defense that the promissory estoppel claim was a disguised claim for negligent spoliation, which the Supreme Court of Pennsylvania does not recognize.

Moreover, assuming such a cause of action could withstand summary judgment, the damages claimed were speculative in that without the vehicle it could never be proven that a manufacturing defect within the vehicle had caused the fire. Although the \$1.6M damages were established, whether the insurance company could prove causation of damages was speculative and the promissory estoppel claim could not survive summary judgment.

Defense prevails in jury trial on underinsured motorist claim

MD prevailed in a jury trial on a underinsured motorist claim in Hillsborough County's 13th Judicial Circuit. The plaintiff claimed he suffered permanent and debilitating injuries in a rear-end collision in Tampa, Florida. Liability was admitted, but the extent of the plaintiff's injuries was in dispute. The plaintiff asked the jury to award him \$500,000 for past and future damages. The jury found there was no permanent injury and awarded \$25,000 for past medical expenses only.

INSURANCE PUBLICATIONS

Navigating New Jersey's New Bad Faith Landscape For The Modern SIU

Key Points from the publication:

- New Jersey's Insurance Fair Conduct Act now imposes stringent and dangerously vague duties and requirements on New Jersey insurers and special investigators.
- The passage of the Act brings New Jersey in line with several other states and jurisdictions in creating a statutory cause of action for bad faith in certain first-party claims.
- When SIU investigates claims, best practices will be crucial in establishing good faith and avoiding the punitive consequences of violation of the Insurance Fair Conduct Act.

STAY IN TOUCH

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To learn more visit www.weightmans.com

Weightmans

BACKGROUND

Weightmans is a top 40 UK law firm, with more than 1,400 people working from offices in Birmingham, Cardiff, Glasgow, Leeds, Leicester, Liverpool, London, Manchester and Newcastle. When it comes to insurance they are known for successfully contesting insurance or reinsurance claims which demand advanced strategies — especially when large sums are at stake. This may involve out-of-court dispute resolution or even litigation.

Weightmans' renowned insurance specialists consistently achieve results through a highly efficient and genuinely comprehensive service. Their specialist teams are dedicated to workplace, disease, catastrophic injury, motor, the London market and public sector, and cover market segments from retail, leisure, construction, transport, logistics and security to travel and rail.

MAKING AN IMPACT

Weightmans this year proudly joined the United Nations Global Compact initiative — a voluntary leadership platform for the development, implementation and disclosure of responsible business practices.

ESG factors are becoming increasingly important and are attracting a huge focus when it comes to the deliverability of business activity. Our stakeholders are attaching more importance to the ESG performance & commitment of firms like ours before partnering with them.

United Kingdom

Our ESG principles are the foundation of our legal services offering, to enhance stakeholder value and to help us contribute to UN Sustainable Development Goals (SDGs). We partner with stakeholders in each of the categories identified by the UN, namely 'State', 'Market' and 'Society', as part of our commitment to contribute to the SDGs. These include – our employees, our clients, our local communities, our suppliers and service providers, our regulators and the wider legal community.

At Weightmans, we have put sustainability at the heart of our business. Our ambition is to be one of the most socially & environmentally conscious national law firms in the UK. We have chosen to adopt the SDG framework to help us achieve our goal. Achieving the SDGs will be the outcome of our focus on the identified material ESG topics. The image below explains our approach to mapping the relevant SDGs to our identified material ESG topics and respective ESG priorities.

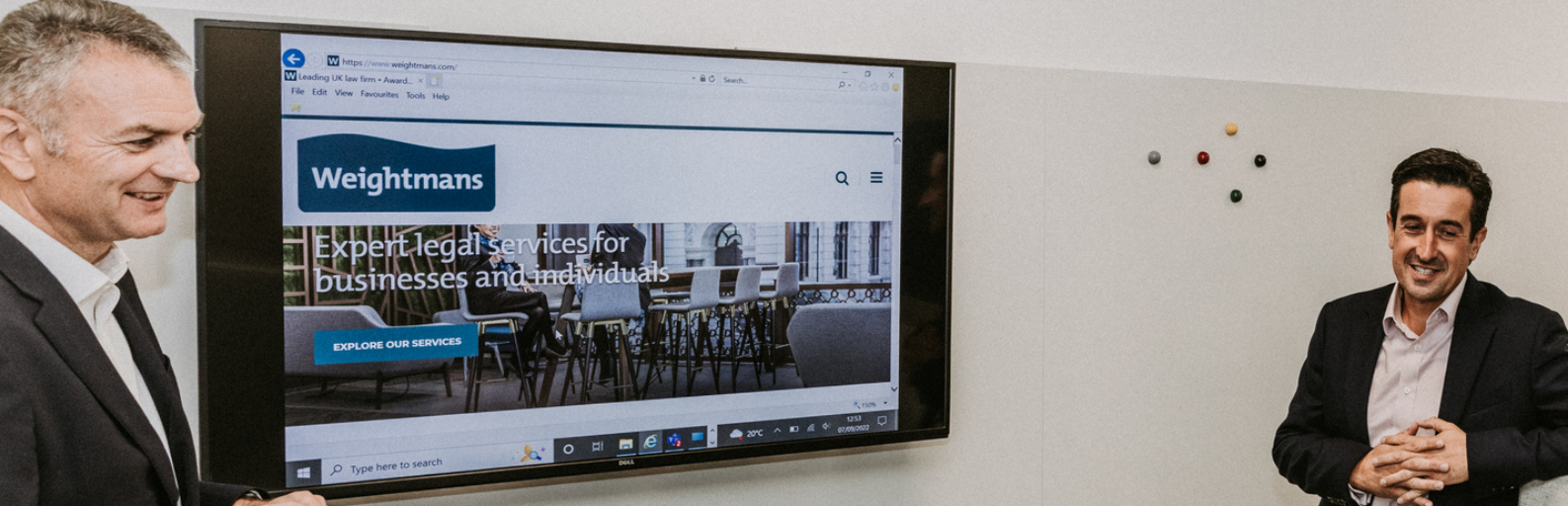
Read more at:

www.weightmans.com/services/regulatory/environmental-social-and-governance-esg

TOPPING THE LEGAL CHARTS

Weightmans received a record number of department and individual rankings with a 17% increase in the number of Weightmans experts listed and 22 top tier listings in Chambers & Partners UK and Legal 500. 446 experts listed in the new editions of the UK's leading legal directories Chambers & Partners UK and Legal 500. The firm has been recommended as a top-tier firm in 22 practice areas across the two directories, and is listed across 135 areas altogether.





To learn more visit www.weightmans.com

Landmark legal case highlights value of injunctions in cyber attack cases

In *'XXX vs Persons Unknown'*, the claimant was subject to a ransomware cyberattack that saw the theft of highly classified, security-sensitive information, much of which was protected by the Official Secrets Act. The stolen data was subsequently uploaded by the attacker to the Dark Web. The legal team – led by Weightmans partner Edward Lewis, with supporting testimony from Weightmans partner Anthony Rance – successfully secured a permanent injunction in a summary judgment, restraining the defendants from using or distributing the claimant's confidential information.

Critically, the court also permitted the case to be heard in private, and for the identity of the claimant – a company providing technology-led solutions for security-sensitive and classified projects of national importance – to be withheld. The judge – Justice Cavanagh – justified this decision on the grounds that there would be a real danger of malicious parties, including hostile nation states and terrorist organisations, seeking and exploiting the claimant's data if the claimant's name was exposed.

This rationale introduces a new point of case law, and grounds upon which future claimants may be able to preserve their own anonymity.

Read the full article: www.weightmans.com/media-centre/news/landmark-legal-case-highlights-value-of-injunctions-in-cyber-attack-cases

INSURANCE LAW INSIGHTS

Greenwashing — commercial and regulatory considerations for directors and insurers

US environmentalist Jay Westerveld coined the term 'greenwashing' in 1986 to describe the practice of overstating the environmental and/or ethical benefits of a product or service.

As discussed below, greenwashing is a key consideration for company directors and their insurers in light of COP26 and the ongoing development of UK regulation, particularly with regard to firms authorised by the FCA and/or listed companies. It is also relevant to any company vulnerable to shifts in consumer opinion and may occur inadvertently, given the vagueness of several 'green' credentials and associated words and phrases.

The Seven Sins of Greenwashing

- The Hidden Trade-off — failing to address the full environmental cost of achieving a superficially sustainable outcome
- No proof — reliance on a lack of easily-accessible contradictory evidence
- Vagueness — imprecise language may be technically accurate but environmentally misleading
- Irrelevance — reliance on factors that are generally applicable and do not help consumers to differentiate
- The Lesser of Two Evils — reliance on a narrow comparison with other unsustainable options, rather than the whole market
- Fibbing — simple falsehoods
- Worshipping False Labels — branding that falsely indicates independent environmental accreditation.

Greenwashing poses an obvious risk of reputational harm. Opinion can quickly turn against those perceived to be misleading consumers, who are more engaged in relation to environmental issues today than they have been ever before. Companies hoping to turn this enthusiasm for the environment to their commercial advantage must therefore ensure that their asserted environmental credentials are accurate and justifiable, or risk losing the trust (and business) of the market.



To learn more visit www.weightmans.com

Greenwashing — commercial and regulatory considerations for directors and insurers continued

Companies making inaccurate environmental disclosures can expect to face intervention. As [Partner Nicola Gonnella](#) discussed in a previous article, the Competition and Markets Authority (“CMA”) published a Green Claims Code in September 2021 containing guidance for businesses making environmental claims in the UK which is capable of enforcement by the CMA in both civil and criminal proceedings.

Since then, the FCA has published its ESG Strategy on 3 November 2021, based on the core themes of Transparency, Trust (see above), Tools, Transition and (stretching the alliteration to its limits) Team. [Chapter 2 of the ESG Handbook](#), in force from 1 January 2022 and subject to [the FCA's usual enforcement powers](#), specifically focuses on the disclosure of climate-related financial information, including reports in relation to both business management and products pursuant to the recommendation of the Task Force on Climate-related Financial Disclosures (“TCFD”).

The TCFD, created by the Financial Stability Board, released its [Recommendations](#) for climate-related disclosures in 2017 covering the themes of Governance, Strategy, Risk Management and Metrics & Targets. The organisation is becoming increasingly influential, with the UK requiring that all publicly listed UK companies with a premium listing must “comply or explain” regarding the TCFD’s Recommendations by 2023.

The EU has incorporated the TCFD’s Recommendations into its Guidelines on Reporting Climate-Related Information. In the USA, the SEC launched its Climate and ESG Task Force in March 2021 as part of its Division of Enforcement, looking for gaps and misstatements in disclosures of climate risks.

Steps that were previously undertaken voluntarily are therefore increasingly becoming obligatory and subject to regulatory sanction. Directors and officers must of course ensure that their businesses comply with current rules to avoid criminal prosecution, civil liability or regulatory action, but there is also a clear argument in favour of seeking to stay ahead of the game with regard to sustainability as regulation continues to advance and market expectations continue to rise. Accurate and well-supported ESG disclosures should help to support and develop relationships with potential investors, business partners, employees, clients and consumers while minimising the risk of reputational harm, regulatory sanction, erosion or shareholder value and potential liabilities which may require notification to D&O or environmental insurers.

Crucially, careful and proactive management of ESG risks and related disclosures is also necessary to ensure that businesses adapt to the low carbon and/or net-zero economy as quickly as possible for the benefit of the environment as a whole. This is of course the fundamental point of all the environmental regulations and recommendations and such considerations will lie at the heart of any authentic ESG policy.

Read the full article:

www.weightmans.com/insights/greenwashing-commercial-and-regulatory-considerations-for-directors-and-insurers

STAY IN TOUCH

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