



Law Offices
METHFESSEL & WERBEL
-----A Professional Corporation-----

The Leading Insurance and Claims Attorneys

CASE ALERT!

July 8, 2005

METHFESSEL & WERBEL INCLUDED IN INTERNATIONAL SURVEY OF TOP INSURANCE LAW FIRMS

While engaged in long-range business planning in the 1990's, we decided to resist the allure of "diversification" and to continue to focus solely on insurance law. Our goal was simple: to become one of the pre-eminent insurance law firms in the United States. Pursuit of this goal, we reasoned, would lend itself to virtually every other goal we set.

Of course, measuring the attainment of such goals is difficult. One of the ways we have done so historically is through our impact on the development of case law in the states where we practice. For instance, Methfessel & Werbel has been attorney of record in 26 published opinions since 2000, 46 since 1995, 69 since 1990, and 99 in our 33-year history - all in insurance law and more than any other New Jersey firm practicing exclusively in our field. Every day, in every claim department adjusting New Jersey claims, the claims handling process is affected by law which our firm developed.

Certainly industry recognition is always welcome as well. We are thrilled to share with you the results of a recent survey published in Reactions Magazine, a European monthly called "the leading monthly magazine that provides detailed, global coverage of the insurance and reinsurance industries." The magazine explores how the world's businesses, insurers and reinsurers cope with and transfer risk, and looks at the concerns facing senior executives at insurance and reinsurance companies.

Reactions' "Legal Survey 2005" identified the top insurance law firms in the United States and Europe. (A copy of the article is attached.) The article identified the winners, the runners-up, and all firms receiving votes. A total of 81 U.S. law firms received votes, most of them large



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national or multi-national firms. The average size of the law firms selected is 470 attorneys; the majority are among the largest 200 law firms in the country. Only three of the firms selected are headquartered in New Jersey: Budd Lerner, Coughlin Duffy and Methfessel & Werbel.

We are proud to have received votes in this survey recognizing the top insurance law firms in the United States. While we did not top the survey, our inclusion places Methfessel & Werbel among the elite law firms in the insurance industry. It also shows that our firm stands toe-to-toe with the pre-eminent firms in the world in our area of practice, and validates the investments we have made over the years to serve client interests – not to mention our decision to continue to focus exclusively on serving the insurance industry.

Our clients know that while the size of our firm enables us to deliver personal service tailored to each client's individual needs, we have the scale, resources, and international reputation to handle any issue presented by the claims process, no matter how large or complex. While we are confident that M&W delivers value to our clients in a manner that exceeds the performance of many firms named in the survey, this recognition is as much about the quality of our firm as anything else.

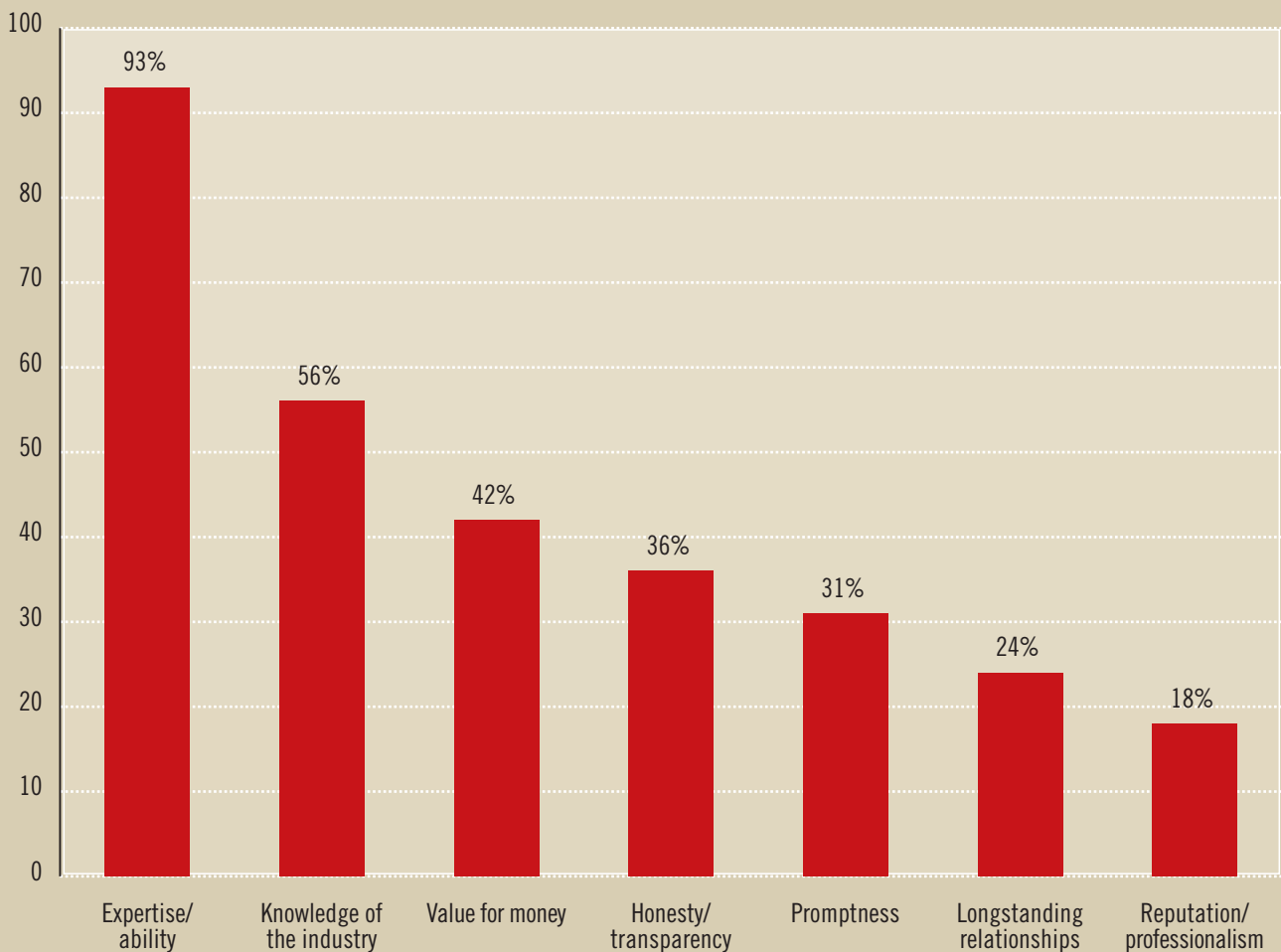
You can rest assured that while we are proud of this international recognition, we will not rest, as we have not rested for the past 33 years. In fact, our inclusion in the Reactions survey only compels us to achieve a new goal: to be named the top insurance law firm in the country. We continue to strive to be The Leading Claims and Insurance Attorneys, and continue to dedicate ourselves solely to the insurance industry and its legal challenges. We thank all of you who supported us in this survey and throughout our 33 years of practice, and we invite you to contact either John Methfessel Jr. or Joel Werbel to discuss the services we can provide to you, your staff or your company.

Corporate scandals and regulatory probes are increasing the amount of litigation against insurers, adding to the workload of their in-house legal teams. **Reactions'** extensive poll of in-house counsel, which received more responses than ever before, reveals how they are coping with the extra burden. By Bianca Markram

Living up to expectations

What qualities do you value most when selecting a law firm?*

%



*Respondents could each choose three characteristics.

Source for all graphs: **Reactions** legal survey 2005

It all started in October last year, when Eliot Spitzer, New York's attorney general, sued Marsh & McLennan Companies (MMC) over questionable use of contingent commissions at Marsh, its broking subsidiary.

MMC settled the case in January this year by paying \$850m into a fund to compensate clients whose business Marsh had earned contingent commissions from.

But it did not stop there. In March this year, Spitzer and others sued Aon, which promptly settled by agreeing to pay \$190m into a similar fund. Then in March, Willis set up a \$50m fund to avoid a suit from Spitzer.

Not content with kicking brokers into line, Spitzer turned his attentions to finite risk reinsurance. The resulting investigations of this product's use unseated Hank Greenberg, one of the industry's most formidable and respected leaders, from his position as chief executive of American International Group.

The result of all this scandal is that the insurance industry's reputation has taken a beating. This has created a lot more work for the industry's in-house legal teams.

An extra burden

Several participants in 2005 **Reactions** legal survey identified the unravelling of accounting irregularities and questionable industry practices as the reason for the ever-increasing disputes insurance companies have to face.

More than half of the participants – 54% – have experienced an increase in litigation. Of these, 11% believe this increase is because of increased regulatory scrutiny as a result of recent investigations. “There is more focus on insurance activities by the

The top firms

US

Lord, Bissell & Brook
LeBoeuf, Lamb, Greene & MacRae
Edwards & Angell
Stroock & Stroock & Lavan
Alston & Bird
DLA Piper Rudnick Gray Cary
Simpson Thacher & Bartlett
Butler Rubin Saltarelli & Boyd
Weil, Gotshal & Manges
Morris, Manning & Martin

The top firms

Europe

Barlow Lyde & Gilbert
Clifford Chance
Ince & Co
Clyde & Co
Kendall Freeman
Freshfields Bruckhaus Deringer
CMS Cameron McKenna
Lovells
Simmons & Simmons
Norton Rose

Key

Winner

Highly commended

Commended

Footnote: Firms are ranked in order of the number of votes they received.

regulatory bodies,” says one respondent. Another says: “Corporate scandals have consequences in regulation.” And another says that reinsurance transactions are now under closer scrutiny because of a combination of Sarbanes-Oxley, financial fraud litigations and Spitzer's investigations.

Some believe these investigations have increased class-action lawsuits. Indeed, as a result of the Spitzer investigations, shareholders and clients have filed class-action lawsuits against MMC, Aon, AIG and some of these firms' executives. ▶

Speaking their minds

In-house counsel air their views

Reactions asked the in-house counsel of insurers, reinsurers and brokers how they cope with litigation and what they think of the service they get from their external law firms.

How should law firms improve their services?

Hard cases make bad law. A lot of what we deal with is very novel situations, or situations with enormous emotional overlay, for example September 11-related losses. Law firms, because of economic pressures, sometimes tend to say what they think we want to hear. I will fire them for that, but other companies seem to expect it. Lawyers are full of themselves and think they are brilliant in all things, even if they have no or little experience in something. It's OK to say: “I don't know.” I don't hesitate to do so when appropriate. Neither should my outside counsel.

Respondent from the North American subsidiary of an international insurer

Law firms should offer as full a service as possible and be able to handle a wide variety of matters, but provide top quality legal services in any area of the law in which the firm practices.

Respondent from a US insurance company

Stop thinking that the litigation process is a cash cow. Provide proactive analysis and strategy. Stop putting a case on rails and letting junior associates learn at carriers' expense.

Respondent from a Californian insurance company

We enjoy excellent service from our panel counsel. If we are dissatisfied, we simply move on to the next firm. We will have no hesitation to do this in the middle of a transaction or litigation.

Respondent from a US insurance company

Better willingness to estimate costs and then keep within these estimates.

Respondent from a subsidiary of an international reinsurer

Follow instructions given.

Respondent from a general claims agent for a foreign insurer

Admit when they are out of their depth on a certain topic.

Respondent from a US insurance and reinsurance company

A real willingness to embrace alternative fee structures, rather than just paying lip service to such.

Respondent from a UK insurance and reinsurance company

They all need to improve their understanding of their clients' business objectives, and then tailor their advice accordingly.

Respondent from an insurance and reinsurance company

Greater promptness, and being more attuned to our business and needs.

Respondent from a US insurer

Legal bills should be very detailed with minimal duplication of effort. Vague entries lead to the client's questioning of the work performed and the value received. If the work is detailed and it is easy to understand what was done, this promotes a partnership between the firm and its clients.

Respondent from an insurance company

Use the telephone more. This enhances relationships more than e-mails and other written correspondence.

Respondent from a US insurance and reinsurance company

Act more efficiently, communicate better, and stay on top of the case or issue.

Respondent from a managing general agent

continues▶

Top firms by category (ranked)

US

Regulatory

LeBoeuf, Lamb, Greene & MacRae

Lord, Bissell & Brook

Stroock & Stroock & Lavan

Edwards & Angell

Litigation and dispute management

Lord, Bissell & Brook

LeBoeuf, Lamb, Greene & MacRae

Reed Smith

Sonnenschein Nath & Rosenthal

DLA Piper Rudnick Gray Cary

Insolvency

Lord, Bissell & Brook

LeBoeuf, Lamb, Greene & MacRae

Weil, Gotshal & Manges

Corporate contract

Lord, Bissell & Brook

LeBoeuf, Lamb, Greene & MacRae

Simpson Thacher & Bartlett

Policy drafting

Lord, Bissell & Brook

LeBoeuf, Lamb, Greene & MacRae

Edwards & Angell

Reed Smith

Reinsurance

Lord, Bissell & Brook

LeBoeuf, Lamb, Greene & MacRae

Butler Rubin Saltarelli & Boyd

Mound Cotton Wollan & Greengrass

DLA Piper Rudnick Gray Cary

Reed Smith

Key

Winner

Highly commended

Commended

Footnote:

Where firms are grouped in the same category, they have the same number of votes.

One respondent believes measures to curb class-action lawsuits are needed to combat the increase in litigation. "It seems to benefit the lawyers and not the plaintiffs, and it is a significant source of expense for insurance companies," she says.

Another respondent agrees and adds: "If Spitzer were sincere, he would investigate how class-action lawyers rip off their own

Top firms by category (ranked)

Europe

Regulatory

Clifford Chance

Lovells

Norton Rose

Barlow Lyde & Gilbert

Litigation and dispute management

Barlow Lyde & Gilbert

Ince & Co

CMS Cameron McKenna

Clyde & Co

Insolvency

Kendall Freeman

Clifford Chance

Clyde & Co

Corporate contracts

Freshfields Bruckhaus Deringer

Clifford Chance

Slaughter and May

Policy drafting

Barlow Lyde & Gilbert

Clyde & Co

Freshfields Bruckhaus Deringer

Ince & Co

Simmons & Simmons

CMS Cameron McKenna

Reinsurance

Barlow Lyde & Gilbert

Ince & Co

CMS Cameron McKenna

Speaking their minds (continued)

What type of intervention would you welcome and why?

Asbestos litigation reform is necessary to ensure that the truly injured are compensated.

Respondent from a US insurer

Enhance the legal system's integrity so that cases are decided on merit, rather than people playing the system.

Respondent from a US insurer

I am sceptical that proposed tort reform will work. Caps on some types of damages will simply cause shifts to other damage theories. Prior efforts don't seem to have worked (for example, the securities law).

Respondent from a US casualty insurer

Settlements in the UK are reasonable and predictable, unlike the US and other jurisdictions.

Respondent from a UK insurance and reinsurance company

I support efforts to decrease litigation in general. Reduce class actions, strictly enforce realistic statutes of limitation, and charge attorney fees to the losing party in all litigation.

Respondent from a US catastrophe risk management software company

Eliminate emotional stress when a plaintiff is a corporation. Limit non-economic damages. And instate specialised tribunals to review insurance-related situations.

Respondent from the North American subsidiary of an international insurer

Some cap or regulation on legal rates. They always come in higher than expected.

Respondent from a subsidiary of an international reinsurer

As a money manager, we represent insurance companies. We are in favour of litigation relating to securities matters, but against litigation relating to insurance matters.

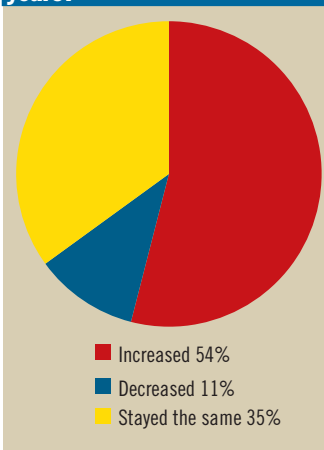
Respondent from an insurance investment management company

continues ▶

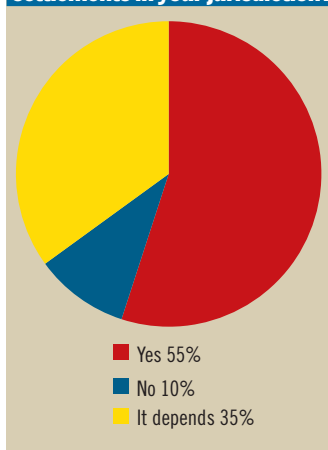
clients." And another believes states should intervene. "There should be limits on attorneys' fees in class-action cases," he says. This respondent's firm, an insurance company, is involved in class-action cases at the moment.

In February, US President George Bush signed the long-awaited Class Action Fairness Act into law. The act is expected to lead to smaller and fewer payouts. The bill seeks to move large class-action lawsuits to a federal court from state courts.

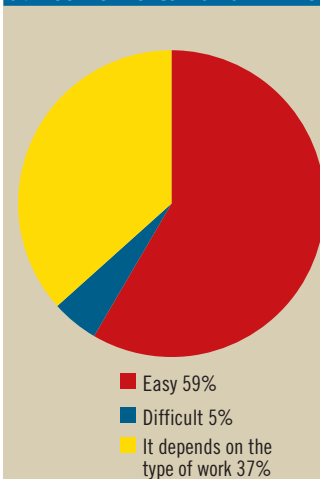
What has happened to the levels of arbitration/litigation at your company in recent years?



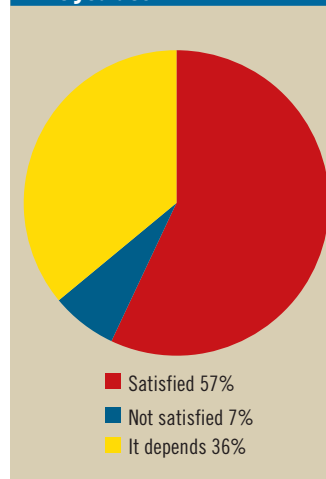
Would you support political measures to reduce the amount of litigation/size of settlements in your jurisdiction?



How do you find the process of getting adequate support and advice from external law firms?



How satisfied are you with the billing practices of the law firms you use?



Speaking their minds (continued)

How easy is it to get adequate support and advice from external law firms?

It is easy, but expensive. The biggest challenge is getting firms to focus on the issues at hand, rather than starting from scratch.
Respondent from a European reinsurer

It depends on the type of work. You must have a law firm that has insurance and reinsurance knowledge.
Respondent from a managing general agent

It depends on the type of work. Some are more qualified than others.
Respondent from a US broker

I have a short list of external counsel who I have longstanding relationships with and who complement my expertise and skills.
Respondent from a Canadian insurance company

It is difficult to get law firms to give you clear advice on what your likelihood of success is. They are supposed to be the experts and should be able to give you some parameters.
Respondent from a US insurer

I work with some great individuals at a few law firms who are very responsive.
Respondent from a US insurance and reinsurance company

It is difficult. Many firms are not equipped or knowledgeable enough to handle our specific matters.
Respondent from a healthcare third-party administrator in the US

It is difficult. Few players are expert in reinsurance.
Respondent from an insurance and reinsurance company

It depends on the type of work. If the advice is needed in an unfamiliar area, it is often difficult to find an attorney specialised in that area.
Respondent from a US insurance and reinsurance company

continues ►

This was not enough for some survey participants. A respondent from a New York insurance and reinsurance company believes that class-action reforms should go further than restricting the number of lawsuits. "President Bush has recently signed legislation restricting class-action lawsuits, but this should be made retroactive for all existing cases," he says. "Additionally, a change to the system, where the loser pays the attorney bills, would drastically reduce litigation."

But some respondents believe intervention from authorities to curb unnecessary litigation could be worse than having to deal with escalating legal costs. "I don't want political intervention as it is likely to get subverted by one of many interest groups," says one respondent from an insurance and reinsurance company. Another agrees and adds: "Intervention would hurt business."

However, 55% of respondents say they support regulatory or political intervention. Surprisingly, given the debates in the US about the passage of asbestos litigation, only 5% of the respondents who support intervention want asbestos litigation intervention. One respondent states: "Asbestos litigation reform is necessary to ensure that the truly injured are compensated."

In response to the increased litigation, 50% of respondents have outsourced more work to outside law firms, while 47% of respondents have opted for a mixture of outsourcing and expanding in-house legal teams. Even so, the companies experiencing more litigation are spending more time on managing litigation and increased costs. One respondent from a large broker in the US

Other firms receiving votes

In alphabetical order

US

- Abowitz, Timberlake & Dahnke
- Alber Crafton
- Baach Robinson & Lewis
- Bailey Cavalieri
- Baker & McKenzie
- Baker & Daniels
- Balch & Bingham
- Barger & Wolen
- Budd Lerner
- Cadwalader, Wickersham & Taft
- Cahill Gordon & Reindel
- Chadbourne & Parke
- Christensen, Miller, Fink, Jacobs, Glaser, Weil & Shapiro
- Choate, Hall & Stewart
- Cleary Gottlieb Steen & Hamilton
- Coudert Brothers
- Coughlin Duffy
- Davis Polk & Wardwell
- Debevoise & Plimpton
- Dechert
- Dewey Ballantine
- Foley & Lardner
- Gardere Wynne Sewell
- Godfrey & Kahn
- Greenberg Traurig
- Holland & Knight
- Jenner & Block
- Kirkland & Ellis
- Kirkpatrick & Lockhart Nicholson Graham
- Kirtredge, Donley, Elson, Fullem & Embick
- Lanak & Hanna
- Mayer, Brown, Rowe & Maw
- McClain, Leppert & Maney
- McGuireWoods
- Meckler Bulger & Tilson
- Mendes & Mount
- Methfessel & Werbel
- Mintz Levin Cohn Ferris Glovsky & Popeo
- Morgan Lewis & Bockius
- Morrison Mahoney & Miller
- Nixon Peabody
- O'Melveny & Myers
- Pagter & Miller
- Patton Boggs
- Paul, Hastings, Janofsky & Walker
- Paul Weiss Rifkind Wharton & Garrison
- Pepper, Hamilton & Sheetz
- Plunkett & Cooney
- Robins, Kaplan, Miller & Ciresi
- Ropes & Gray
- Schulte Roth & Zabel
- Shea & Gardner (now part of Goodwin Procter)
- Shearman & Sterling
- Sidley Austin Brown & Wood
- Stockham, Carroll & Smith
- Sullivan & Cromwell
- Susman & Godfrey
- Thacher Proffitt & Wood
- Thompson, Loss & Judge
- Thompson & Slagle
- Venable
- Wachtel, Lipton, Rosen & Katz
- White & Williams
- Wiley Rein & Fielding
- Wilkie Farr & Gallagher
- Wilmer Cutler Pickering Hale & Dorr
- Wilson, Elser, Moskowitz, Edelman & Dicker

Europe

- Allen & Overy
- Ashurst
- Baker & McKenzie
- Berwin Leighton Paisner
- Charles Russell Solicitors
- Debevoise & Plimpton
- Denton Wilde Sapte
- DLA Piper Rudnick Gray Cary
- Eversheds
- Hill Taylor Dickinson
- Kennedys
- Lawrence Graham
- Linklaters
- Reynolds Porter Chamberlain
- Richards Butler
- White & Case

Bermuda

- Appleby Spurling Hunter
- Attride-Stirling & Woloniecki
- Conyers Dill & Pearman

Other

- Cassels Brock & Blackwell (Canada)
- Deney's Reitz (South Africa)
- Dillon Eustace Solicitors (Ireland)
- Matheson Ormsby Prentice (Ireland)
- Phillips Fox (Australia)
- Webber, Wentzel & Bowen (South Africa)
- Werksmans Attorneys (South Africa)
- William Fry Solicitors (Ireland)

Speaking their minds (continued)

How satisfied are you with the billing practices of the law firms you use?

Not satisfied. The rates of most lawyers in the big markets keep going up. There seems to be little consideration of the client with regards to the bill matching the value added by the firm. They are often too expensive.

Respondent from a US insurance company

Not satisfied. We audit them, and the results are mixed.

Respondent from a US insurance company

It depends. Billing philosophies vary between the US and UK. US firms tend to bill more hours but at a lower hourly rate. UK firms are the opposite. The UK approach is probably more candid. How can lawyers regularly bill 10 to 12 hours every day – presumably they sleep under their desks?

Respondent from a UK insurance and reinsurance company

It depends. Billing practices are not normally the cause of an excessive bill – it is normally the working practices.

Respondent from a global broker

Not satisfied. Bills are task, as opposed to project, oriented.

Respondent from an insurance investment management company in the US

Satisfied. I ask for detailed billings, which are provided.

Respondent from a South African subsidiary of an international reinsurer

It depends. Some follow our guidelines and others less so.

Respondent from an insurance and reinsurance company

Satisfied. We have agreed to specific billing guidelines.

Respondent from an insurance company

It depends. We are very satisfied with the firms we choose, dissatisfied with firms customers choose.

Respondent from a US insurance company

Satisfied. There are no significant cost over-runs – I manage outside counsel carefully.

Respondent from a risk management software company

It depends. Prices are getting much too high and firms are getting less efficient.

Respondent from a US insurance and reinsurance company

It depends. If we feel that lawyers have billed too many hours, we will challenge them.

Respondent from a UK insurance and reinsurance company

Not satisfied. The longer they take, the more they can charge. They should introduce fixed fees.

Respondent from an international insurance and reinsurance company

It depends. One firm fought to not give an itemised bill.

Otherwise billing practices are fine.

Respondent from a Bermudian reinsurance company

Satisfied. We require that hourly rates and time spent on a matter be specified, and this allows for adequate reviewing of billings.

Respondent from a US insurance company

It depends. Diary entries are sometimes vague and work is sometimes billed incorrectly. I would like to see faster completion of assignments and more precise diary entries.

Respondent from an insurance legislative and marketing office

Satisfied. Law firms must document their bills adequately and bill the right hourly rates for their attorneys based on years admitted to the Bar – and they generally do.

Respondent from a US self-regulatory organisation of brokers and insurers

Satisfied. We use retention letters and have billing guidelines that firms must stick to, eliminating disputes.

Respondent from a US insurance and reinsurance company

Satisfied. Legal costs are shockingly high. We mitigate by using outside counsel only when absolutely necessary. However, there are no complaints regarding the billing practices once we choose to engage our firms.

Respondent from a US insurance company

says: “We are spending perhaps 20% more this year than we have spent in recent years.”

Deal now, detail later

Another concern for in-house counsel is insurance contract wording, which has come under heavy fire recently.

The World Trade Center insurance dispute between leaseholder Larry Silverstein and the Twin Towers’ insurers and reinsurers exposed the weakness of a common industry practice – finalising contract wordings after the coverage period has begun.

In the dispute, Silverstein argued that the insurance policies covering the towers defined their destruction as two separate events, and thus he was entitled to two insurance payments when they were destroyed in the terrorist attacks of September 11 2001. Insurers argued that their policies defined the towers’ collapse as one event.

The legal battle began because a full contract was not in place when the towers fell, even though coverage of the building had already started. It was not clear what contract wordings were agreed on between Silverstein and the respective insurers and reinsurers.

Also, the increase in claims disputes in recent years has placed emphasis on the importance of contract wording. In December, the UK’s financial services watchdog, the Financial Services Authority (FSA), announced the implementation of the Prudential Sourcebook. This will require insurance and reinsurance companies operating in the UK to have policy wording in place before

the policy is effective, and to review their policy wordings on a regular basis. The FSA wants to combat the deal-now-detail-later mentality in the industry.

The FSA says policy wordings should be reviewed by in-house counsel or, where none exists, external law firms. But even companies with their own counsel must have the wordings reviewed by external firms periodically. The watchdog will fine or censure any company that does not comply.

It seems that some in the industry are taking the lessons of the past to heart and are proactively seeking to reduce claims disputes. Companies are now investing more time and money in building their own claims and compliance services, says one respondent to the **Reactions** legal survey.

Another says that his reinsurance company now reviews its reinsurance treaties with great care, and updates the language of the contracts more regularly than before. And another reports that reviewing the terms and conditions of his company’s insurance policies has decreased litigation.

As well as paying closer attention to the wordings of the policies they issue, companies are also scrutinising the terms of the coverage they buy to protect themselves. This enables them to get what they are entitled to with fewer disputes. One respondent from a run-off management company says this is what his company does. “We are taking more vigorous action against reinsurers to force them to pay,” he says.

There is no disputing that litigation is sometimes justified. But some argue that differences can often be resolved before they reach a court. However, they say measures to resolve these differences are not always used. "Issues that were negotiable years ago have become litigable," says one respondent from an international insurance company. "There is little or no downside in going to court, even if you have a losing case."

The most logical way of resolving differences is negotiation. One respondent from South Africa says his company encourages negotiation. "It is in the best interests of all parties," he says. But he adds: "The ability to litigate where necessary is always a comforting fall-back position." He points out that litigation is only used when necessary.

A respondent from an international insurance and reinsurance company also says his firm has reduced litigation by negotiating more, rather than suing at the first opportunity. "Exploring more compromise settlements avoids the expensive arbitration and litigation," he says.

Another respondent says his company has stopped offering products in a dispute-prone line of business. "Arbitration and litigation decreased because our organisation discontinued new sales of a particular product line and enhanced risk controls," he says.

He adds that his company continues to invest more time and effort in risk management to minimise litigation. He also suggests that mediation between parties should be mandatory. "If a mediator determined that a party did not participate in the mediation in utmost good faith and that party ended up on the losing end of the trial verdict, then that party should be made to pay the other party's legal costs," he says.

Up to the job

Despite all the efforts companies are making to curb litigation, most have experienced an increase in litigation in the past year. This means an increasing reliance on the expertise of external law firms. The survey results show that these law firms are generally meeting their clients' expectations.

The top qualities insurers and reinsurers require from their law firms are expertise and ability, and knowledge of the industry. This is the same as last year. But this year participants believe value for money is more important than responsiveness, which was voted the third most important last year.

External lawyers seem to be improving their knowledge. Respondents are more comfortable with their law firms' understanding of the industry and their clients' business than they were last year. Sixty-three percent of respondents say their law firms understand their business very well, compared with last year's 37%. Thirty-seven percent of respondents this year say their law firms understand their business well, compared with 60% in 2004. Only 1% of respondents this year say the law firms they use do not understand their business well. This compares with 3% last year.

Respondents seem equally satisfied with their lawyers' services. Fifty-nine percent of respondents say they find it easy to get adequate support and advice from their law firms, and 37% say it depends on the type of work. But only 5% say it is difficult.

Despite insurers' satisfaction with their external legal teams, these lawyers should not rest on their laurels. With more revelations of accounting irregularities and increased regulatory scrutiny of industry practices, legal disputes look set to continue. The best the industry can hope for, it seems, is a levelling off in the amount of litigation.

The various initiatives, such as US legislation aimed at decreasing class-action lawsuits and other efforts at tort reform, have not been enough to decrease the number of lawsuits being filed, the size of settlements, or the amounts juries would pay plaintiffs for punitive damages.

Given all of this, the insurance industry is bound to become more reliant on external law firms for their expertise. And this in turn will only increase the demand for excellence from law firms. ●

Cutting costs, not quality

UK firm Lexwerx Legal Support is able to undercut its rivals by basing its back-office function in India. By Katy Burne

Outsourcing to India is hardly a novel concept. Call-centres, accountancy firms and software companies alike have taken advantage of the country's well-educated workforce. But few have been canny enough to tap the talent emerging from India's top law schools.

Ben and Gus

Macfarlane – cousins, founding solicitors, and co-directors of Lexwerx Legal Support – saw that potential. By teaming up with a practice in New Delhi they are able to offer the quality of legal services one would expect of a London law firm at a third of the cost.

The Macfarlanes founded Lexwerx in October last year and recently moved to the Lloyd's building from Kensington, West London – putting them closer to prospective insurance clients. Lexwerx is not a law firm, and under Law Society regulations is confined to working with qualified lawyers in England and Wales.

All jobs are quoted for and handled in the UK. But most of the legal work is done in India by the firm's joint-venture partner, Archer & Angel, which it found through the Indian International Chamber of Commerce. Ben and Gus believe this set-up enables them to price their services competitively, without compromising on quality or confidentiality.

Gus says the New Delhi team prides itself on its understanding of Western service standards. He adds that the five-and-a-half-hour time difference allows them to meet tight deadlines. "Whilst we're sleeping, they can be working," he says. "But the time difference means there is still just enough crossover to be able to liaise during the day. This leaves Ben and I enough time to vet each job before it goes back to the client."

Lexwerx specialises in asbestos-related cases, UK Financial Services Authority compliance, coverage disputes and international trade sanctions. Ben and Gus have both worked at Clyde & Co, a law firm specialising in insurance and reinsurance, so they are well versed in the sorts of tasks in-house counsel or niche run-off companies would ask them to do. Their aim is to make legal support so affordable that companies will analyse and contest smaller or more complicated claims that they would have deemed not worth litigating before.

Outsourcing to India gives Lexwerx other advantages, too. One is that services from India escape the 17.5% value-added tax chargeable on services within the UK. Another is that, because both countries have a common legal system, they share similar legal precedents. According to Gus, 95% of the Indian legal system is derived from the English system, and Indian Supreme Court decisions are even conducted in English.

The Macfarlanes are not the only ones to have capitalised on these benefits. They were inspired to create Lexwerx because they saw that several other firms, including Atlas legal Research in Texas and Lexadigm Solutions in Michigan, had adopted the same business model. "We felt the market was ripe for this type of venture," says Ben. "India had started to market itself as a business process outsourcing centre and we saw its potential."



Lexwerx lawyers left to right: Geetanjali Mehwal, Akash Bhardwaj, Kartik Srivastava, Dhvani Bhadoria and Saba Majid