

# Managing Liability Claims: A Perspective

## 23 November 2013



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# Outline

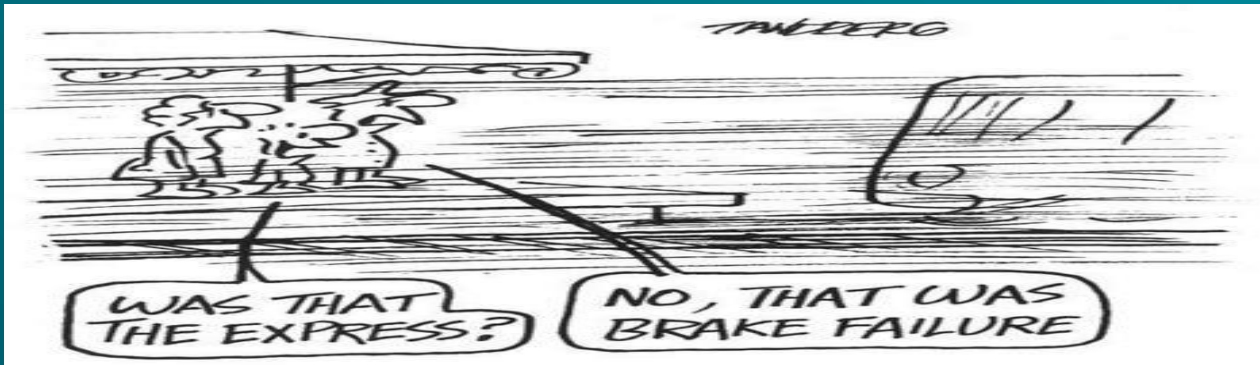
- Changing role of a Claims Department
- Why claims need managing
- By whom?
- Methods of managing
- Conclusions

# Changing Role of a Claims Department

- Previously - a “necessary evil”
- Now - important role
  - source of Management Information
  - Marketing Tool

# Why Claims Need Managing - 1

- Process or “track”
- It is in no-one’s interests to go off the rails



- Insured, Cedant, Reinsurer, Broker
- Well run claim can retain business
- Badly run claim makes enemies

# Why Claims Need Managing - 2

- They are increasing
- In India - a general increase in E&O and D&O claims, notably relating to domestic regulation infringements (e.g. customs)
- Similarly in Employers Liability

# By Whom?

- Insured
- Broker
- Insurer / Cedant
- Reinsurer

# Why the Insured?

- You want the claim paid!
- Complying with Policy conditions
- Getting the right cover in the first place and reading it
- Consulting with the broker

# The Insurer and Reinsurer

- Liability policies normally cover defence costs, even if the claim has no merit
- Costs can quickly escalate
- For example



**TIMEKEEPER SUMMARY REPORT**

[REDACTED]

	<u>STANDARD AMOUNT</u>			<u>BILL AMOUNT</u>		
	<u>RATE</u>	<u>HOURS</u>	<u>AMOUNT</u>	<u>RATE</u>	<u>HOURS</u>	<u>AMOUNT</u>
<b><u>New York</u></b>						
<b><u>Partner</u></b>						
[REDACTED]	\$ 990.00	58.70	\$ 58,113.00	\$ 990.00	58.70	\$ 58,113.00
[REDACTED]	865.00	24.10	20,846.50	865.00	24.10	20,846.50
<b><u>Associate</u></b>						
[REDACTED]	\$ 665.00	147.10	97,821.50	\$ 642.42	147.10	94,500.00
[REDACTED]	515.00	89.70	46,195.50	515.00	89.70	46,195.50
<b><u>Litigation Support</u></b>						
[REDACTED]	\$ 235.00	0.30	70.50	-----	-----	-----
<b><u>Paralegal</u></b>						
[REDACTED]	\$ 260.00	32.70	8,502.00	\$ 260.00	32.70	8,502.00
[REDACTED]	215.00	13.60	2,924.00	215.00	13.60	2,924.00
<b><u>Managing Clerk</u></b>						
[REDACTED]	\$ 170.00	6.50	1,105.00	-----	-----	-----
<b><u>Library Staff</u></b>						
[REDACTED]	\$ 195.00	0.40	78.00	-----	-----	-----
[REDACTED]	195.00	1.20	234.00	-----	-----	-----
[REDACTED]	145.00	0.50	72.50	-----	-----	-----
<b>SUBTOTAL New York:</b>		<b>374.80</b>	<b>\$ 235,962.50</b>		<b>365.90</b>	<b>\$ 231,081.00</b>
<b><u>Boston</u></b>						
<b><u>Associate</u></b>						
[REDACTED]	\$ 685.00	1.90	\$ 1,301.50	-----	-----	-----
<b><u>Paralegal</u></b>						
[REDACTED]	\$ 200.00	2.70	540.00	-----	-----	-----
<b>SUBTOTAL Boston:</b>		<b>4.60</b>	<b>\$ 1,841.50</b>		<b>0.00</b>	<b>\$ 0.00</b>
<b><u>Washington DC</u></b>						
<b><u>Associate</u></b>						
[REDACTED]	\$ 665.00	2.10	\$ 1,396.50	\$ 665.00	2.10	\$ 1,396.50
<b>SUBTOTAL Washington DC:</b>		<b>2.10</b>	<b>\$ 1,396.50</b>		<b>2.10</b>	<b>\$ 1,396.50</b>
<b>GRAND TOTALS:</b>		<b>381.50</b>	<b>\$ 239,200.50</b>		<b>368.00</b>	<b>\$ 232,477.50</b>

[REDACTED]  
[REDACTED]  
New York, NY 10153

August 24, 2010

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

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**FOR PROFESSIONAL SERVICES AND DISBURSEMENTS**

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Invoice Number: [REDACTED]  
Client/Matter Number: [REDACTED]

**FOR PROFESSIONAL SERVICES RENDERED** during March 2010 in  
connection with [REDACTED]  
[REDACTED]

**FEES DUE:** **\$ 232,477.50**

**DISBURSEMENTS:**

Computerized Research	\$ 15,482.82	
Duplicating	654.60	
Filing Fees	18.00	
Local Transportation	<u>227.68</u>	<b><u>\$ 16,383.10</u></b>

**TOTAL AMOUNT DUE:** **\$ 248,860.60**

NEW DELHI -  
INDIA

Tel: [REDACTED]  
Fax: [REDACTED]

Bill No.: [REDACTED]

Date: [REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

DATE	PARTICULARS	In Pocket Expenses (Rupees) (Amount)	Out of Pocket Expenses (Rupees) (Amount)
[REDACTED]	[REDACTED]		
[REDACTED]	Internal discussions regarding [REDACTED] <i>Mg. Partner @ Rs.37,500/hour</i> <i>Sr. Partner @ Rs.25,000/hour</i> <i>Sr. Associate @ Rs.8,750/hour</i>	[REDACTED]	
[REDACTED]	[REDACTED]		

## Schedule of Rates and Expenses

### Professional fees – Sydney office range of hourly rates

	GST exclusive	GST Inclusive
Tax Partners	\$900.00 – \$975.00	\$990.00 – \$1,072.50
Partners	\$660.00 – \$835.00	\$726.00 – \$918.50
Consultants and Special Counsel	\$605.00 – \$755.00	\$665.50 – \$830.50
Senior Associates	\$525.00 – \$650.00	\$577.50 – \$715.00
Associates	\$430.00 – \$510.00	\$473.00 – \$561.00
Lawyers	\$370.00 – \$510.00	\$407.00 – \$561.00
Law Graduates	\$310.00 – \$350.00	\$341.00 – \$385.00
Paralegals and Clerks	\$90.00 – \$475.00	\$99.00 – \$522.50
<b>Other Professional Staff:</b>		
Legal Technology Specialists	\$90.00 – \$440.00	\$99.00 – \$484.00

### Expenses

A3, A4 and A5 black and white photocopying	\$0.44 per page (GST incl)
Colour document production	at cost
Special document production	at cost
Registration fees	at cost
Court fees	at cost
Stamp duty	at cost
Barristers' and experts' fees	at cost
Travel and accommodation	at cost
Car travel	ATO cents per km rates
Advertising	at cost
Couriers	at cost
Bank charges	at cost

### Professional fees – national range of hourly rates (applicable to interstate matters)

	GST exclusive	GST Inclusive
Tax Partners	\$810.00 – \$975.00	\$891.00 – \$1,072.50
Partners	\$585.00 – \$835.00	\$643.50 – \$918.50
Consultants and Special Counsel	\$530.00 – \$800.00	\$583.00 – \$880.00
Senior Associates	\$480.00 – \$650.00	\$528.00 – \$715.00
Associates	\$375.00 – \$540.00	\$412.50 – \$594.00
Lawyers	\$305.00 – \$520.00	\$335.50 – \$572.00
Law Graduates	\$275.00 – \$350.00	\$302.50 – \$385.00
Paralegals and Clerks	\$60.00 – \$475.00	\$66.00 – \$522.50
<b>Other Professional Staff:</b>		
Legal Technology Specialists	\$90.00 – \$440.00	\$99.00 – \$484.00

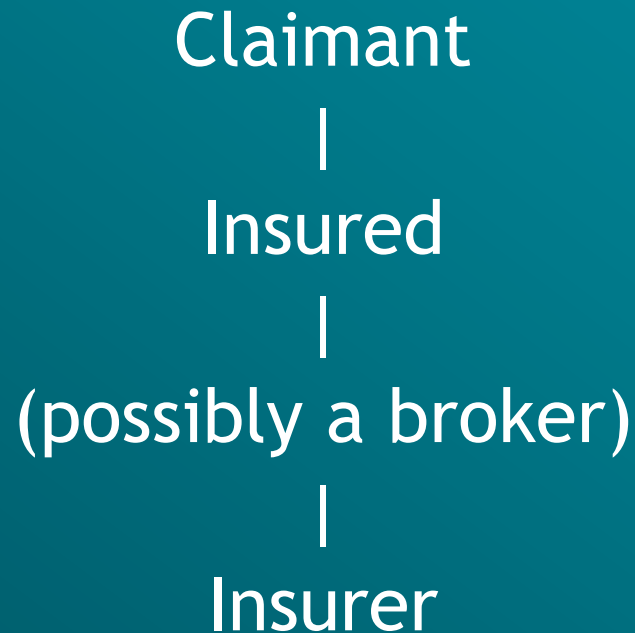
# How do you React ?



**"Do you promise to pay the bill,  
the whole bill and nothing but the bill?"**

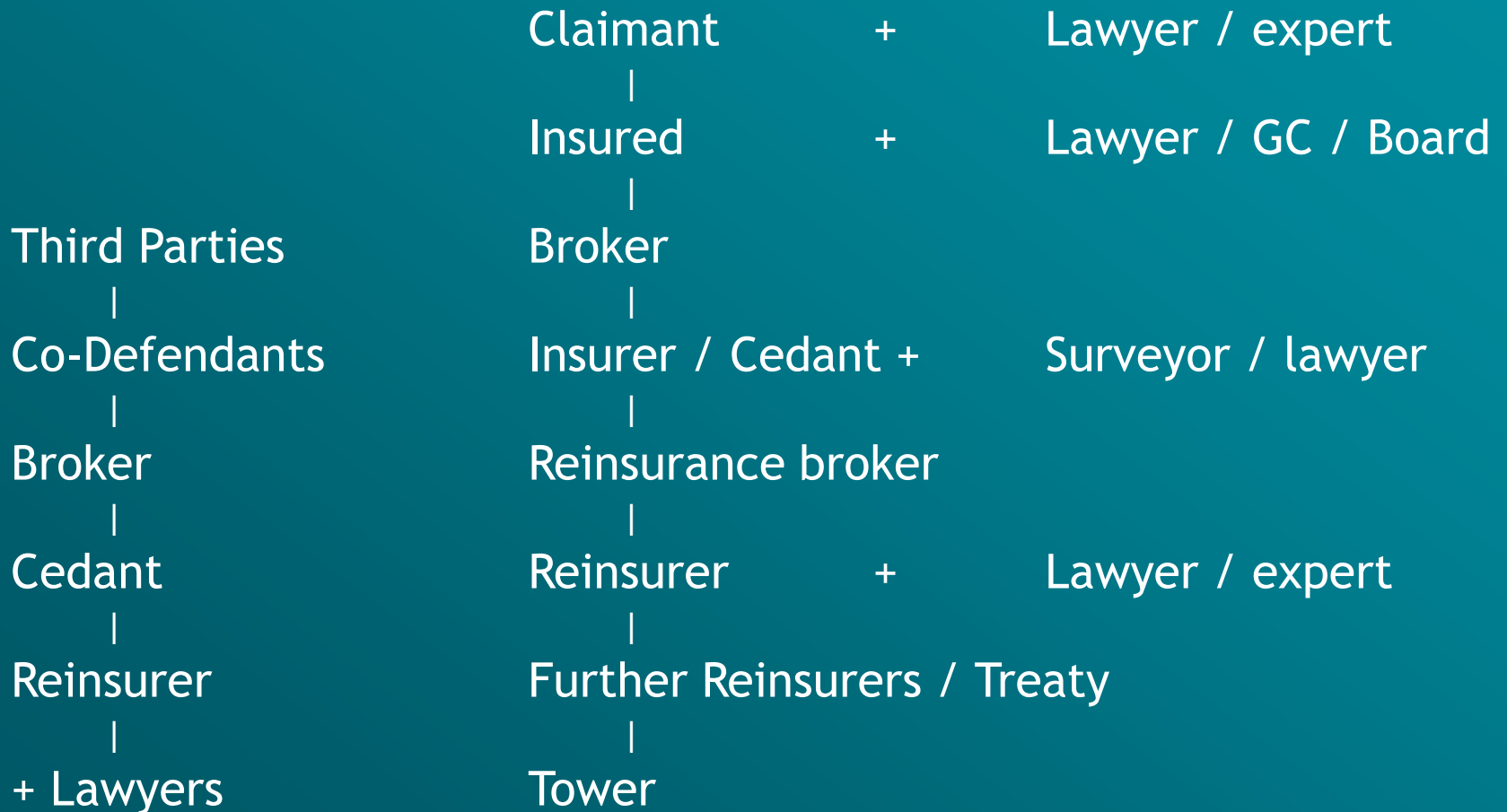
# Reporting Channels increasing complex

- Compare those involved in a small claim .....



# Reporting Channels 2

- With a complex claim .....



# How to Manage Claims

- Early appraisal
- Early action
- Communication
- The person with control must be given the tools to control, and must then use them



# What is Control?

- Claims Control clauses
- Duty to Defend/right to defend
- How to control?

# Claims Cooperation

- Duty on Insured/Cedant to cooperate with Insurer/Reinsurer
- Provide information, from initial notification to the conclusion of the claim
- Don't wait; volunteer
- Do not assume Insurers/Reinsurers will pick up the tab; communicate with them

# How NOT to do it

- An example of a bad notification:
- *“You are requested to take note of the attached document and we seek your permission to close the settlement with the client. Subsequently, we shall be happy to furnish you with all the documents and provide the requisite information as may be required from your end.”*
- The “attached document” was a draft settlement agreement and this was the first notification of the claim!

# Conclusion

- Good communication and proper management = minimum chance of problems and maximum efficiency.
- And a lower cost to the Insurer/Reinsurer
- And more chance of the Insured keeping his client.

# THE END - THANK YOU FOR LISTENING



Peter Ellingham,  
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