

## INSURANCE & CORPORATE RISK

### Overview

Our insurance team is highly skilled and has been providing legal services to the insurance industry since 1953.

Just as important as technical expertise however, is having a good "feel" for what a matter is worth, satisfying the client's real needs and achieving the best possible outcomes. That's the edge our clients really appreciate.

We handle commercial and insurance matters for local and international insurers, reinsurers, self-insurers, institutional clients and government departments and agencies.

TressCox's insurance expertise extends to:

- Advising upon and resolving claims and other insurance-related disputes
- Policy construction
- Indemnity advice
- Insurance Contracts Act advice
- Product development
- Compliance and Financial Services advice
- Corporate Governance for insurance companies, captives and mutuals.

TressCox's aim is to identify quickly the real issues in each claim and work with our clients to implement an effective resolution strategy which takes into account the overall goals of our client and the implications of the claim to those goals. We actively seek to employ alternative dispute resolution techniques where appropriate, resulting in significant cost savings to our clients.

**TressCox is listed as a recommended law firm in the Asia Pacific Legal 500 (2006/07, 2007/08, 2008/09 & 2009/10) for Insurance.**

### Services

The team handles matters that range across all major lines of insurance including:

#### Directors and Officers Liability

Members of the firm have acted for insurers in directors and officers liability insurance matters over many years. We have assisted insurers in relation to many of the corporate collapses since the 1980s and we continue to provide assistance with current issues.

#### Professional Indemnity

We have several decades of experience in professional indemnity matters and have assisted a broad range of professionals including:

- Accountants
- Solicitors
- Valuers
- Bankers
- Financial advisors
- Architects
- Surveyors
- Real Estate Agents

- Actuaries
- Engineers.

#### Public Liability and Product Liability

We have a significant liability claims practice. The types of claims handled cover the spectrum and range from slip-and-fall personal injury claims to group litigation arising from catastrophic events relating to allegedly defective products. We also have broad experience in a wide variety of property damage claims, including a number of claims which have involved complex economic and financial loss arguments requiring varied and detailed expert investigations.

#### Medical Negligence

Our health team specialises in common law negligence matters and has defended medical practitioners and hospitals in all jurisdictions. The firm has defended some of Australia's most well-known medical negligence cases and has probably the best known practice in this area in Australia.

#### Marine Insurance

The firm has significant experience acting for marine insurers in all areas of maritime law and recovery actions.

The firm has expertise in Cargo matters, Liabilities matters and Hull and Machinery matters. Our advice to clients in this area extends to a wide range of policy wordings, commercial contracts and special agreements and clauses for shipping documents.

#### Product Development, Distribution & Compliance

TressCox provides comprehensive advice to clients on product design, policy wording and marketing and agency agreements for new and existing insurance products. Our advice is tailored to suit the specific needs of the industry, incorporating developing trends such as Bancassurance and the delivery of products through e-commerce channels.

#### Property

TressCox has defended property damage claims, including a number of claims which have involved complex economic and financial loss arguments requiring varied and detailed expert investigations.

#### Reinsurance

Members of our team have been involved in most of the persistent issues that have troubled the international reinsurance market over the last two decades.

#### Track Record

##### Directors' and Officers' Liability

Matters involving the Girvan Group, State Bank of South Australia, the Duke Group, Spedley Securities, the Satellite Group and the One.Tel Group. We have advised insurance players such as Chubb, Marsh, SVB and several major insureds on D&O issues including liability advice, claims work and product development.

##### Professional Indemnity

Bateman Project Engineering Pty Limited & Ors ats Pegasus Gold Australia Pty Limited & Ors – We resolved a \$380 million claim against an international joint venture of engineering firms which prepared a feasibility study for a gold mine.

Kinhill Engineers Pty Limited ats Leighton Contractors Pty Limited – We successfully defended a \$40 million claim against a firm of

engineers arising from the design of a multi-storey car park.

Russell McVeagh McKenzie Bartlett litigation (1996) - We successfully resisted a claim for indemnity in a multi-million dollar professional indemnity claim in New Zealand on the basis of fraudulent non-disclosure.

Rothwells Limited Litigation - The firm conducted the defence of a multi-million dollar claim upon a professional indemnity policy arising out of the failed rescue of Rothwells. The matter was settled on favourable terms.

Ocean Marine Mutual v FAI General Insurance Company Limited (1999) – We conducted the successful defence of a reinsurance dispute said to be worth in excess of US\$40 million. Investigations revealed fraudulent conduct and the allegations of fraud put significant pressure on the plaintiff.

Ahern & Ors v Murdoch University & Ors – We are acting on the defence of a group action by 160 plaintiffs against the university arising from horticultural expert reports prepared in relation to tax-driven investment schemes. The claim is in excess of \$15 million and is being vigorously defended.

Willcox v National Australia Bank and Carson & MacLellan (2000) – We achieved a favourable settlement when acting for underwriters in relation to indemnity issues arising in a negligence and conspiracy claim against accountants consequent upon the entry into voluntary administration of computer software company.

Russo v Bendigo Bank and Reichman (1999) – This matter involved action against a bank and solicitors arising from a forged mortgage and dealt with questions of indefeasibility of title under Torrens system land registration. The claim was successfully defended at trial and is on appeal.

### Public Liability and Product Liability

Booker v State Rail Authority – We acted in this and other pieces of litigation arising out of the 3801 train accident.

E v Australian Red Cross Society - We defended the Red Cross (NSW) in this action arising from HIV contamination of blood transfusions and blood products and all other related claims in Australia. All claims were successfully defended.

Murray River Electricity Claims – We acted in the defence of numerous claims allegedly arising from conduct by a local council. All claims were successful resolved after a lengthy private arbitration of two test cases.

### Medical Negligence

Some of the more significant recent cases we have been involved in include:

- Super Clinics v CES
- Chappel v Hart
- Lownes v Woods
- Alexander v Heise
- Koziol v Anasson
- Perrin v Bleasel
- Brooks v Upjohn
- Radovanovic v Cutter.

### Product Development, Distribution and Compliance

We have experience in:

- Selling insurance through bank distribution channels
- Promoting bundled insurance and banking products seamlessly, whilst conforming to the Trade Practices legislation

- Delivering point-of-sale information and disclosures by e-commerce methods
- Protecting privacy and confidentiality rights in relation to the operation and management of customer databases
- Advising on financial sector reform and its impact on the regulatory framework, distribution systems and sales processes together with the impact of the Financial Services Reform legislation
- Advising on the corporate requirements of insurance companies
- Drafting plain English insurance policies
- Drafting matching reinsurance slips
- Drafting directors' and officers', professional indemnity, information technology and marine policies
- Advising on distribution, marketing and compliance in relation to the introduction of new policies and insurance and financial products.

### Reinsurance

We have acted for global reinsurers and reinsureds including Converium, Equitas, KWELM, Munich Re, Zurich Re, advising on a full range of current issues and achieving resolution through negotiation, arbitration, mediation or court proceedings.

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