

E D I T O R I A L

Professor Bob Carter

Professor Rob Merkin reports:

“Readers will be deeply saddened to hear of the passing of Professor Bob Carter on 18 September 2012. Bob was for many years professor of insurance at Nottingham University, and is probably best known to the membership of BILA as author of the classic text “Reinsurance”, a new edition of which was close to completion at the time of his death. Those of us who knew him will remember a brilliant, gentle and humble man, whose advice and expertise was sought constantly in the insurance market. He leaves an impressive legacy of published work. After retirement from the University, Bob and Rita spent much of their time in Sidmouth, where we passed many hours discussing the intricacies of the London market, for which his enthusiasm never waned. Latterly he returned to Nottingham. Bob was a towering figure who will be greatly missed.”

2012 BILA article prize

I am pleased to be able to announce that Alice Kane and Steven Levitsky of Duane Morris LLP have been awarded the 2012 BILA article prize for their outstanding article “US healthcare reform 2010-2011” in issue 124 of the BILA Journal. As noted below it is being followed up by a further article in this issue.

Insurance fraud

The first contribution in this issue is a study of the subject of insurance fraud by Aysegul Bugra and Rob Merkin of Southampton University. They argue that the Law Commissions’ recommendations on this subject demonstrate insufficient flexibility.

Damages for late payment of insurance claims

Kees van der Klugt of the Lloyd’s Market Association and member of the BILA Committee, on the other hand, discusses the Law Commission’s proposals for damages for late payment. He questions whether, if enacted, they would lead to greater litigation costs, reserving problems, higher claims handling costs and claims ratios, higher premiums, and some disproportionate awards of damages.

Evolving role of insurance brokers

The contribution of Sir John Thomas, president of the Queen’s Bench Division, is a transcript of his Derrick Cole memorial lecture for BILA on 23 February 2012.

European Commission proposals for a revised Insurance Mediation Directive

Julian Burling, barrister of Serle Court Chambers, and member of the BILA Committee, has provided a full analysis of and commentary on the European Commission's proposal, in the summer of 2012, for a revised Insurance Mediation Directive (IMD2).

The employers' liability trigger litigation

Natasha Gunney, senior associate at Hogan Lovells LLP, has written an article on this subject, which was discussed at a BILA lunchtime event earlier this year. She provides an analysis of the historical and medical background to asbestos related litigation. She discusses the judgment of the Supreme Court earlier this year which considered when liability in such claims is triggered in employers' liability litigation.

Consumer insurance: the risks of contracting on unfair terms

Alice Carse and Alison Padfield, barristers of Devereux Chambers, consider the current state of the law in relation to terms in contracts between consumers and insurers or brokers or other intermediaries which are found to be unfair.

US Supreme Court judgment on the Affordable Healthcare Act

Steven Levitsky, attorney in the New York Office of Duane Morris LLP, has followed up the article he and Alice Kane wrote for issue 124 of the BILA Journal. This second article considers the judgment of the US Supreme Court which upheld the constitutionality of the Affordable Healthcare Act.

Book reviews

There are 3 book reviews in this issue:

- Nathan Hull, associate, Edwards Wildman Palmer UK LLP, provides an extended review of "The Bermuda Form, interpretation and dispute resolution of excess liability insurance" by David Scorey, Richard Geddes and Chris Harris. He compares the approach in this work with the other textbook on this subject by Richard Jacobs QC, Lorelie S. Masters and Paul Stanley QC,
- Peter Fidler, also of Edwards Wildman Palmer UK LLP, reviews the "Research handbook on international insurance law and regulation" edited by Julian Burling and Kevin Lazarus,
- I have written a review of the third edition of "Insurance Claims" by Alison Padfield (who has also contributed an article to this issue (see above)).

Jonathan Goodliffe

Editor

journal@bila.org.uk