

International Asbestos Litigation

**Expert guidance to manage
the global impact of claims**

**29 & 30 September 2009
Central London**

Chaired by:

KIRK T HARTLEY

Butler Rubín Saltarelli & Boyd

ROGER ENOCK

Covington & Burling LLP

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& Mahoney Ltd

DAVID MILLER

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MARK BEHRENS

Shook, Hardy & Bacon LLP

PROFESSOR MARK BRITTON

Ashford and St Peter's Hospital

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PricewaterhouseCoopers LLP

ANDREW MORGAN

Field Fisher Waterhouse LLP

ALBERT AZAGRA

Universitat Pompeu Fabra

CÉCILE DERYCKE

Lovells LLP

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ANNE KEARSE

Motley Rice LLP

LESLIE DAVIS

Crowell & Moring LLP

JAMES GLEAVE

Zolfo Cooper

ROD FREEMAN

Lovells LLP

SELVYN SEIDEL

Burford Advisors LLC

**Attending this strategically timed
1½ day conference will enable you to:**

- Debate the impact of the **EL policy 'trigger' litigation**
- Learn about the latest developments in **asbestos lobbying and litigation in the US**
- Receive an update on the latest **medical and scientific developments** that may assist early diagnosis of tumours
- Understand what issues will affect **corporate defendants** as claims increase
- Examine the latest **litigation funding techniques** including hedge fund investment

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Why attend this conference?

The threat of asbestos claims around the world refuses to be quenched and the dramatic increase in class and collective claims is likely to fan the flames of costly and time-consuming litigation.

In the UK the EL ‘trigger’ litigation and the pleural plaques consultation have once again opened a Pandora’s box of what constitutes injury and when does coverage apply. This in turn is likely to lead to an escalation of claims in this country.

In the US, we will be taking an in-depth look at asbestos lobbying and litigation and discussing current trends and emerging issues.

Globally, there appears to be an increase in the set up of private trusts to forestall civil suits (*James Hardie, Eternit, Cape Industries* to name but a few) whilst in the US Chapter 11 trusts are now open to overseas claims.

Join our ‘dream team’ of leading international legal, medical and financial experts who will guide you through the morass of regulatory developments and influx of contradictory case law. They will be on hand to help you answer the following key questions:-

- What will be the likely impact of the latest **scientific developments** on global claims trends?
- How can **corporate defendants** mitigate their risk as claims increase?
- Is hedge fund investment a viable alternative means of **litigation funding**?

Who should attend

- Claimant and defence lawyers
- Defendants and their counsel
- In-house counsel and risk managers
- Insurers, reinsurers and their advisers
- Asbestos consultants
- Investment/financial experts

DAY 1

09.00 Registration and coffee

09.25 Chair’s opening remarks

KIRK T. HARTLEY, *Butler Rubin Saltarelli & Boyd*

09.30 A global asbestos litigation update – panel session

• UK

- Scale of the problem in the UK
- Latest developments in cases
- What’s next?

• The present and the future of asbestos litigation in the USA

- Trends relating to mesothelioma filings and verdicts
- New targets in the litigation

• Australia

- *Fairchild* down under - recent decisions on risk and causation
- Triggers for asbestos claims coverage - the Australian approach
- Claim trends and developments

ROGER ENOCK, *Partner, Covington & Burling LLP*

EDWARD MCCAMBRIDGE, *Partner,*

Segal McCambridge Singer & Mahoney Ltd

DAVID MILLER, *Partner, Colin Biggers & Paisley, Australia*

SELVYN SEIDEL, *Chairman and CEO, Burford Advisors LLC*

JAMES GLEAVE, *Chairman of the T&N Asbestos Trustee Company and Partner, Zolfo Cooper*

10.45 Coffee

11.00 Asbestos lobbying and litigation in the US

- Discussion of current trends and emerging issues
- Legislative update: federal and state
- Non-asbestos developments influencing asbestos litigation

MARK A. BEHRENS, *Partner, Shook, Hardy & Bacon LLP*

11.30 Medical/Science update

- The pleural plaque debate in the UK
- Early diagnosis of asbestosis and diffuse pleural thickening in the asymptomatic patient – diagnostic thresholds?
- Assessment of disability
- The mesothelioma epidemic in the UK
- PET scanning aiding diagnosis in mesothelioma
- How soon will we have a test that establishes a tumour is developing before presenting clinically?

PROFESSOR MARK BRITTON, *MSc MD FRCP,*

Consultant Physician, Ashford and St Peter’s Hospital,

Chertsey; Visiting Professor, University of Surrey; Vice

President, British Lung Foundation

12.15 Trends in global asbestos

- Global trends
- Estimation methodologies
- Current key issues

MOHAMMED KHAN, *Director,*

PricewaterhouseCoopers LLP

Panel session

13.00 Lunch

14.15 **International mesothelioma claims - the uncertainty principle in action**

- Choosing the defendant, the venue and the law
- Impact of state or Crown immunities
- Reaching agreements with multi-nationals
- Claims in multiple jurisdictions

ANDEW MORGAN, *Partner, Field Fisher Waterhouse LLP*15.00 **EU litigation update**

- **Spain**
 - Compensable damages and pleural plaques
 - Standard of liability and defenses
 - Collateral benefits and punitive increase of social security
 - Governmental liability
 - Class actions

ALBERT AZAGRA, *Universitat Pompeu Fabra, Law School, JSD Candidate and Graduate Teaching Assistant*

- **France: companies still in the front line to compensate claimants**
 - Asbestos workers' early retirement scheme - how far will the French courts go?
 - French asbestos litigation - when will reforms come?

CÉCILE DERYCKE, *Senior Associate, Lovells LLP, Paris*

- **Switzerland**
 - Different routes chosen by the injured
 - Liability of employers
 - Limitation periods – recent judgements and new trends

DR ROBERTO DALLAFIOR, *Partner, Nater Dallafior Rechtsanwälte*

16.00 Afternoon Tea

16.15 **Panel discussion – the future of asbestos litigation**

- Q&A session: is the net tightening on asbestos claimants?
 - The future payment of claims?
 - ELIB (Employers Liability Insurance Bureau) – an insurer of last resort?
 - Asbestos funds: are T&N and Cape working?
- Closing the door on diseases?
 - Is the line drawn at asymptomatic pleural thickening / asbestosis?
 - Will the trigger issue extend to non-mesothelioma claims?
- The costs of litigation:
 - Witness statements & expert reports as precedents?
 - Is the mesothelioma protocol the answer?
 - Is a scheme the answer?

Moderated by MARTYN DAY, *Partner, Leigh Day & Co*Also featuring CHRISTIAN LAHNSTEIN, *Head of Risk, Liability & Insurance, Munich Re* and ANNE KEARSE, *Attorney at Law, Motley Rice LLC*17.15 **Chair's closing remarks**

17.20 End of Day 1

DAY 2

09.25 **Chair's opening remarks**KIRK T. HARTLEY, *Butler Rubin Saltarelli & Boyd*09.30 **Asbestos trusts round the globe – facts and issues**

- Overview of existing private and bankruptcy trusts around the globe, including discussion of the James Hardie situation and related lessons
- Analysis of developments and open issues regarding trust liability estimation, claiming procedures and transparency
- Analysis of whether, how and when trust payments should be factored into litigation against solvent entities

KIRK T. HARTLEY, *Butler Rubin Saltarelli & Boyd*
LESLIE DAVIS, *Counsel, Crowell & Moring LLP*
DAVID MILLER, *Partner, Colin Biggers & Paisley, Australia*
JAMES GLEAVE, *Chairman of the T&N Asbestos Trustee Company and Partner, Zolfo Cooper*10.30 **Increased pressures on corporate defendants in managing UK asbestos litigation**

- Challenges for corporate defendants under the UK fast-track procedures
- Evidentiary issues: dealing with an effective reversal of burden of proof
- Insurance recoveries: practical problems associated with tracing cover
- Non-EL claims: Bolton and the public liability insurance problem
- Changes to the UK statutory compensation systems and their impact on corporate defendants
- Global risks - managing asbestos liabilities for corporations with multinational exposures

ROD FREEMAN, *Partner, Lovells LLP*

11.15 Coffee

11.30 **Litigation financing, national and international**

- Overview
- Selected jurisdictions: US/UK/Australia/Europe
- Class actions and other complex actions
- International

SELVYN SEIDEL, *Chairman and CEO, Burford Advisors LLC*

MR. SEIDEL is the founder, Chairman, and CEO of Burford Advisors LLC, and its subsidiary Burford Litigation Funding. The entities consist of diverse, experienced professionals, and distinguished business and finance individuals, advising on an integrated and comprehensive basis. In the litigation finance industry, Burford Litigation Funding and members of Burford Advisors LLC are independent expert consultants to claimants, funders, insurance entities, and law firms. As such, they assist on a number of levels: matching claimants with funders, insurance entities, and law firms, as needed; independently and objectively evaluating claims, and when possible improving the recovery value of the claim; facilitating the approval process of claims; coordinating with various parties and improving where possible the prosecution of and resolution of claims; assisting in establishing funds for special areas of litigation financing.

12.30 Chair's closing remarks

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