Lloyd’s Under 30’S Study Tour
Canada and Central North America: 5th May – 18th May 2013
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BACKGROUND

The Lloyd’s Non-Marine Under 30s Group was established some 30+ years ago, and is an organisation that is open to all those under the age of 30 years who are engaged in the Lloyd’s Non-Marine market.

The aims and objectives of the group are to provide a forum for topical comment and to encourage members to be aware of the many rapidly changing facets of the Insurance industry as a whole, and in particular those that affect the Lloyd’s Non-Marine community.

The group has always believed that one of the most effective ways of enhancing this awareness amongst its membership is to hold bi-annual study tours. These trips are of great value in strengthening contacts in the market, through brokers, underwriters or clients, and in promoting understanding within the Lloyd’s community itself.

Due to the importance of the North American Insurance Market to London and especially Lloyd’s, the committee has chosen to visit sites and liaise with clients in Canada and Central North America for the Spring 2013 study tour, visiting: Toronto, Chicago, Atlanta and Dallas.

The party was made up of 32 people from a wide section of the market, including Underwriters and Brokers of varying classes of Non-Marine Insurance and Reinsurance business, as well as a representative of Lloyd’s Ltd itself.

On behalf of all the Lloyd’s Under 30’s participants, we would like to thank the many people in Canada and the US who have spent a lot of time organising the meetings, visits and activities. It is very much appreciated and we hope that the following reports will show a snapshot of what we all took away on this memorable tour.

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This was Rob and Laura’s second Study tour after 2011’s Seattle, San Francisco, Las Vegas and Los Angeles trip. They were hugely happy with leading the 2013 group through Toronto, Chicago, Atlanta and Dallas. With great ties made with some very generous companies; with colleagues and tourists bonding in class rooms and drink receptions; this year’s Lloyd’s Under 30’s Study Group looked to grow from where the last left off and made a fine impression.
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Our first meeting of the Lloyd’s Non-marine under 30’s tour took us to Toronto Pearson airport, 17 miles northwest of central Toronto. Upon arrival at the airport we were met by Pauline Leloudas, Russ Cruickshank and Shannon Martin, of Pearson airport; they gave us a presentation on “the little airport that grew” providing an excellent overview of the history of the airport as well as their on-going modernisation and expansion. We were also joined by Chris Gudgeon (QBE) and Mark Warren (Aon) who kindly facilitated our visit.

Starting its existence in 1938 as Chapman Farmhouse, it was not long until plans for an official terminal building were put in place by the then Department of Transport for Canada, completing its construction in 1964. This terminal was built to handle 3 million passengers per annum however after only three years it was already handling over 4.5 million customers per annum, which clearly shows the exponential growth the airport has experienced over the last 50 years.

The 1990’s saw continued change and development at the airport with the completion of a privately built terminal in 1991 and the introduction of the Greater Toronto Airport Authority (GTAA) in 1996. The GTAA is a not for profit corporation which leases the airport from the federal government. Since 1997 more than $4 billion has been spent on redevelopment including their central de-icing facility which is currently the largest in the world and allows them to clear all five runways of snow in less than 15 minutes! The airport has even purchased some of the highways surrounding the site; there are no government grants provided for maintenance of this, and all improvement are self-funded.

Currently Toronto Pearson handles over 34 million customers per annum which is almost the population of the entire country of Canada and firmly establishes the airport in the top 50 of the most used airports in the world. In fact 30% of all air traffic in Canada passes through here. Pearson Airport has the capacity to handle up to 38 million customers per year, and expects to be able to handle up to 70 million passengers (the same amount as London Heathrow) after further expansion.

Following the informative presentation we headed to one of their Storm water facilities which were designed to capture run-off water from heavy rains as well as to ensure that runoff water would not reach adjacent waterways without first having been tested and, if necessary, purified. One of Toronto Pearson’s risks is the contamination of runoff water with fuel or glycol (which is used as a de-icer for aircraft) reaching nearby rivers and lakes. The Moores Creek Storm water facility which we visited is enormous and can hold up to 440,000 litres of runoff water whilst testing and purification takes place.
Following the Moores Creek Storm water facility, we went to FESTI which is the onsite training and response facility for aviation related fire incidents which occur at Toronto Pearson and other nearby airports. This particular institute has gained a reputation of excellence and as such, fire services from all over the world are sent here for training including the UK and many of the Caribbean islands. We were fortunate enough to witness a training exercise where a purpose built fake aeroplane was ignited. It took 1 minute and 5 seconds for the excellent fire response unit to extinguish the fire using their state of the art single man operated fire truck.

We also had a lengthy discussion with Chief Brian Ross about the biggest prospective risks to the airport from a fire perspective and expected response times. We learned that although the airport had 4,800 incidents requiring a fire service call out last year, the majority of these were events such as people being injured on escalators, trips and falls etc. In terms of more serious incidents, regulations state that following an aircraft incident, the first fire truck must be on scene within 3 minutes as Pearson is a Category 9 airport. As an example, following an Air France incident where there was a fire in the aircraft tail; the first fire truck was at the scene in 57 seconds. This demonstrates the exemplary nature of the fire procedures in place at Toronto Pearson Airport.

Next we were able to spend some time in the airport’s new modern control room which is the hub for all operations of the airport from baggage carousel and gate allocations to terrorism and security risks. We were able to gauge the enormous scale of the operation that handles 46,000 pieces of luggage a day! We also had a chance to discuss with Shannon Martin in greater detail the insurance placements that Toronto Pearson as a company with circa $6.7bn of assets have in place as well as their specific risk mitigation. Although none of the property programme is currently placed in London, Lloyd’s participates on the Terrorism placement and other specialist areas of coverage.

Finally, we had a brief conversation with a member of Falcon Environmental Services regarding the airport’s risk mitigation from bird strikes. Birds of prey including Falcons, Hawks and a Bald Eagle are used from one hour before sunrise to one hour after sunset to frighten away nuisance birds in order to prevent them from damaging aircraft engines and potentially putting lives at risk. Every year there may be between 40 and 80 collisions between birds and aircraft at Pearson. There has never been a collision between one of their working birds and an aircraft. Out of roughly 800 airports in the USA and Canada, only around 20 use this method. Clearly this is a much more environmentally friendly way of preventing bird strikes than man-made methods such as pyrotechnics and shooting as it uses the birds’ natural instincts and enables the risk to be managed naturally.

That concluded our visit to the architecturally stunning, completely functional and incredibly friendly Pearson airport. Our visit provided a great insight into the management, development and risk mitigation involved in an airport and was definitely a highlight for us all. We thank everyone involved for their gracious hospitality, time and efforts.
Round-Table Discussion hosted by Sean Murphy, President/Attorney of Lloyd’s Canada

Monday 6th May 2013

Westin Harbour Castle, Toronto, Ontario

The following Insurance Professionals, as well as members of the Insurance media, were invited by Lloyd’s Canada to provide us with updates on their respective companies as well as their outlook for the Canadian insurance market.

- Chris Gudgeon, Business Development Manager, QBE
- Dane Hambrook, Vice President, Ironshore
- April Savchuk, Director of Broker Relations & Risk, Catlin
- Nazir Haji, Senior Vice President, Aegis
- Greg Sutton, President & CEO, Sutton & Associates

Lloyd’s Canada

1932 saw the opening of the first Lloyd’s Canada office in Montreal, which was the business centre of Canada at that time. Some 78 years later, in 2010 the second Lloyd’s Canada office was opened, this time in Toronto, which now represents the face of Lloyd’s in Canada. This office has a staff of 4 and deals with a number of regulatory bodies.

The office in Montreal now provides the back office functions for Lloyd’s Canada, handling tax issues and compliance as well as operating a call centre. Recognising the need to improve efficiencies from an administrative standpoint, Lloyd’s Canada outsourced a number of its business processes to a company called TELUS. This company assumed direct responsibility for all operational functions, with the exception of governance and compliance activities. Together, Lloyd’s Canada and TELUS created Lineage (Lloyd’s Information Exchange). Lineage is an online system for the reporting and settlement of Canadian dollar binding authority business and has three major components; Insurance Reporting; Business Intelligence; and Accounting. In 2012 $577 worth of premium and $366m of claims were processed through the system.

Lloyd’s is licensed in Canada for most classes of Insurance and Reinsurance and Canada is Lloyd’s Underwriters’ third largest market, with premiums of approximately $2.1m in 2012. In Canada, Lloyd’s is best known as a market for commercial risks in respect of Property, Casualty and Specialty classes of business.

2012 Performance

- Net Premiums Written: $2.09bn
- Net Claims Incurred: $1.04bn
- Underwriting Income: $451.9m
- Net Income: $506.9m
- Lloyd’s Canada has been profitable since 2008 with a $325m - $506m profit fluctuation
- Commercial Property = $565m in premium
- Commercial Liability = $828m in premium
- 233 Cover holders (some of which are Service Companies) are open for business

Regulation

It is important to note that the regulatory environment is different in Canada. Regulation in Canada’s Insurance market is complex and there is little harmonisation between provinces. One important point to note is that the different levels of government in Canada focus on different issues:

- Federal government – solvency issues concerns
- Provincial government – market conduct concerns
Viewing itself as a separate entity, Quebec is slightly different in that the Provincial government is concerned with both solvency issues and market conduct.

**Aegis - Nazir Haji**
Aegis established itself in the Canadian market in 2001 and has since developed a strong network of cover holder relationships and a sizeable portfolio of commercial business. An office in Toronto with a staff of 2 was set up in April 2011 with the aim of supporting and developing Aegis’ cover holder business, both from an Underwriting and a claims perspective. The company now benefits from having a dedicated claims resource on the ground in Canada servicing Canadian Cover holders and providing oversight of service providers. The Canadian portion of the London portfolio is 14% with all underwriting performed out of London. Aegis Canada writes about $100m in premium with the Canadian office representing the largest portion of Aegis’ binder business. Aegis Canada was keen to point out that it really supports the Lineage system. They are keen to build upon the existing London operating model and also see opportunities in the consolidation market but are also aware that the appetite of domestic carriers is on the increase.

**Canadian insurance market:**
- $41bn premium – Property & Casualty
- Top 10 companies represent 65% of the market share
  - Intact (bought by AXA) – 17% market share
  - Aviva – 8.4% market share
  - RSA boost market share by buying brokers

**Brokers/Cover holders:**
- National brokers
- Metro brokers (more in the city)
- Regional brokers (more rural)
- MGA

The metro and regional brokers are losing market share because personal lines is increasingly going direct. Brokers have been divesting personal lines year on year due to loss of market share and instead have been focusing on commercial lines which has served to increase competition in this area.

**Sutton - Greg Sutton**
Founded in 1978, Sutton is celebrating its 35 year in business. Initially specialising in coverage to meet the needs of professional sports teams and athletes, Sutton has broadened its product offering within the Specialty Accident & Health arena and now offers coverage for many diverse clients and risks. Representing 35% of the firm’s revenues, the corporate side of the business is now bigger than the Sports side.

Lloyd’s of London is the primary market used by Sutton with 95% of its business being written through extensive binding authorities and treaties. Sutton has 13 binding authorities for which it has full underwriting authority. The firm is licensed to deal direct with clients but in the large majority of cases they will use brokers. The fastest growing part of the business is Ex-Pat coverage and the firm has an Ex-Pat binding authority with Insured’s in more than 70 countries. In addition to this Sutton also writes Kidnap & Ransom and is keen to grow this internationally. All policies are issued from the office in Toronto and the company has a TPA that administers benefit plans.
Catlin - April Savchuk
Catlin Canada underwrites Insurance and Reinsurance on behalf of Catlin’s Lloyd’s syndicate. The firm has four offices in Canada with a staff of 80 including an actuarial team of 4 based in Toronto. The company is licensed in all provinces and territories in Canada and benefits from local underwriting expertise who take advantage of the broker network that has been developed. The firm has Marine & Aviation capacity of $100m and has a notably very large book of Aviation business in Canada. From a claims perspective Catlin Canada has a dedicated claims resource on the ground with local claims handling and settlement authority. Importantly Catlin Canada is not set up to compete against itself in the London market.

QBE - Chris Gudgeon
QBE Canada has a dedicated team based in Toronto and Vancouver focussing on developing new and existing business through the Lloyd’s channel. QBE provides a range of commercial insurance products to the Canadian market, including: General Liability; Professional Liability; Financial Lines; Marine, Marine Energy & Inland Marine; Construction All Risks; Aviation; Kidnap & Ransom; Political Risks & Terrorism; and Bloodstock & Livestock. Since establishing itself in Canada, QBE has expanded its offering to the Canadian Insurance market and increased is SME E&O business.

Ironshore - Dane Hambrook
Ironshore set up in Toronto, Canada in 2009. The company provides coverage for windstorm disasters, earthquakes, and industry losses. It also offers directors and officers, employment practices, pension trust, fidelity insurance, long term care professional, management, managed care errors and omissions, construction, and professional liability insurance products.

Until last year, Lloyd’s was the number one player in Canada but due to consolidation in the Canadian insurance marketplace it has become a very tough playing field, with the growth of HUB ($2.8bn in revenues) due to acquisitions. They are now the largest broker in Canada.

Technology is becoming increasingly important for distribution and reaching customers etc. In Canada it is the brokers that control the business and therefore Underwriters visiting brokers in Canada is essential. Sponsorships in order to sell the brand of Lloyd’s in Canada is also very important, as are continual meetings with Cover holders, where the market and Lloyd’s is discussed. As a result of these continued efforts the Lloyd’s brand is very strong in Canada. Attorney-in-Fact is operating well and last year saw 12,000 risks processed through the system.

The Lloyd’s Under 30’s Study Group and Canadian Insurance Professionals were then given an opportunity to chat further, while the Canadian Underwriter and Top Canadian Insurance Broker photographers captured the moments.

*Pictures Courtesy of Canadian Underwriter: www.canadianunderwriter.ca
JLT Canada employs more than 250 people across 8 cities. They specialise in many areas including but not limited to, Construction, Natural Resources, Insurance for professionals, Corporate, Public Sector, Employee Benefits, Sport, and Hospitality & Leisure. The presentation was carried out by Elmo Osborne who has an enormous amount of experience in Construction and Surety across North America and Canada. The following will give you an overview of what was discussed, and what was learnt by the group.

A bond guarantees the performance of a contract or other obligation. Bonds are three party instruments by which one party guarantees or promises a second party the successful performance of a third party.

- **The Surety**- Is usually a corporation which determines if an applicant (principal) is qualified to be bonded for the performance of some act or service. If so, the surety issues the bond. If the bonded individual does not perform as promised, the surety performs the obligation or pays for any damages.

- **The Principal**- Is an individual, partnership, or corporation who offers an action or service and is required to post a bond. Once bonded, the surety guarantees that he/she will perform as promised. In the context of a construction project this would be the main Contractor.

- **The Obligee**- Is an individual, partnership, corporation, or a government entity which requires the guarantee that an action or service will be performed. If not properly performed, the surety pays the obligee for any damages or fulfils the obligation. In the context of a construction project this would be the Employer or Owner.

The surety bond also has specific benefits for the obligee such as allowing the owner to benefit from getting their contract completed as initially intended at start of the bond. By comparison the contractor benefits from being able to free up cash reserves for use in other areas of the business as an element of credit risk will be removed as a liability from the financial statements.

Surety bonds are specific to a particular contract and the bond will follow this contract and ultimately only step in when the contractor fails to perform (This having been said there is a provision for acts of terrorism, insolvency, bankruptcy and force majeure which cause the bond to default). Once a surety bond is executed it will remain in force and may not be cancelled (even in the event of non-payment of the premium).

There are many different types of bonds each which serve different purposes:

- **Bonds specific to construction contracts**
- **Bonds ‘related to’ construction contracts**
- **License and permit bonds**
Contract bonds specific to construction are simple in form and do not contain any information regarding specific liability of either the contractor or the surety but merely cover the obligations the contractor assumes in his contract and a description of the work to be performed. Bonds specific to construction contracts include:

1) **Bid bonds:** This bond will provide security to the project owner in the event that their contractors fail to honour a bid.

2) **Agreement to bond:** An agreement to bond commits the surety to providing performance and payment bonds if the contractor is awarded the contract.

3) **Performance bonds:** Provides financial assurance that the contract will be fulfilled according to the terms and conditions of the contract (including price and time)

4) **Labour and material payment bonds:** This bond provides a financial assurance that the contractor will pay parties who have worked on or supplied to a bonded contract.

5) **Maintenance bonds:** Provides for the maintenance and repair of a complete project of a contractually defined period of time

6) **Lien bonds:** Coverage in the event that construction defaults but there is a provision to hold back up to 10% of the value of the bond

Surety Bonds and Insurance do sound similar, however they are not. The key differences are as follows:

**Three Party Agreement.** As detailed above there are three parties to a Surety agreement, whereas Insurances is essentially a two party agreement.

**Losses are not expected.** Though some losses do occur, surety premiums do not contain large provisions for loss payment. The surety takes only those risks which its underwriting experience indicates are safe. This service is for qualified individuals or businesses whose affairs require a guarantor. Therefore the Underwriting is based on 0% loss expectancy. However all surety bonds have a ‘penal sum’ which is the maximum dollar that could be paid out (which includes profit but excludes legal and other fees) in the event of the principle’s default.

**Surety is selective.** When looking at Surety it easy to draw comparisons to the Banking sector; the surety itself is similar to loan, as the Surety is essentially lending its credit to the principal. A surety underwriter will be trained to be selective and like banker he/she will be trained to not make any “bad loans” as such. The Surety will look at the contractor’s references, their dedication to the business, their honesty and integrity. This process of pre-qualification and credit risk assessment of the principle is one of the major benefits of a surety bond and this is an on-going process maintained through frequent meetings between surety and the contractor. As a result a large portion of the premium can often relate to cost from investigating unsuccessful bond candidates.

**Losses are recoverable.** In the event of a valid claim the surety expects to recover its losses from the Principal via the Indemnity agreement. However it must be noted that full reimbursement under the indemnity agreement is rare.
Institute for Catastrophic Loss Reduction

Tuesday 7th May 2013

20 Richmond Street East, Toronto, Ontario

We were delighted to receive a very detailed and informative talk on Global change and catastrophic loss from Glenn McGillivray. Glenn is the Managing Director of the Institute for Catastrophic Loss (ICLR), a non-profit research institute based in Toronto and London Ontario, whose mission is to reduce the loss of life and property caused by severe weather and earthquakes.

The ICLR was created in 1997 by the Insurance Community to advance their understanding of environmental hazards, learn more on how to build safer properties and understand disaster risk management more effectively. It is financed by its founding members, primarily Canadian property and casualty Insurers. Extra income is raised from fee based specific research projects. The ICLR is relatively small staffed with a much larger part time support team consisting of scientists and researchers as well as students from a number of universities.

The overall message from Glenn was that catastrophic losses are rising, in frequency and severity. The Swiss Re, Sigma, report shows a 20 fold increase in the cost of cat losses since 1970. During this time the number of seismic events has remained stable, the increase comes from the more frequent weather related events. Glenn described for us some of the larger events that have affected Canada and Canadian Insurers in recent history:

- 1996 Quebec Flood
- 1998 Ice Storm
- Tornado “Elie” Canada’s first F5
- 20th August 2009 – 18 documented tornadoes in one day
- Slave Lake wildfire
- Hurricane Igor (amongst others)

In 2005 over the Toronto area, there was a storm that took place on what is now known as ‘Freaky Friday’. The storm affected a very narrow strip of the city; the area downtown and the airport were not touched. In the areas that did get wet, 153mm of rain fell in 2 to 3 hours. The old infrastructure couldn’t handle the load and a large section of roadway got washed away. With it went a section of high pressure gas and water mains and the section was out of action for five months. The Freaky Friday event not only highlighted structural deficiencies but also contributed to making 2005 a CA$1bn loss year. While this used to be a very rare occurrence, 1998, 2005, 2009, 2010, 2011 and 2012 have all been CA$1bn loss years. It is now becoming the new normal.

The other main peril for Canada is earthquake; the Cascadia fault is on the west coast running offshore of Vancouver where the Juan de Fuca plate meets the North American plate. This is recognised globally as being an area that could produce an extremely large earthquake event. As recently as November 2012 they suffered an event of 7.8 on the Richter scale. Luckily there was very little damage as it was in deep water offshore.

There are other earthquake prone areas in Canada such as Western Quebec, but they do not pose as serious a threat in terms of forceful activity. While the quakes
might be less powerful, more of the buildings in the Quebec area are older and built from masonry. Eastern Canada is located in a stable continental region within the North American Plate and, as a consequence, has a relatively low rate of earthquake activity. Nevertheless, large and damaging earthquakes have occurred there in the past and will inevitably occur in the future. To further complicate matters, only around 5% of Québécois have earthquake insurance.

So in summary, why are increased losses arising in Canada?

- Increased number of properties (over CA$1Tn of residential property in Canada)
- Increase in population
- An ageing infrastructure (up to 30% is over 100 years old)
- Decreased spending on infrastructure as a result of the current economic climate
- Climate change, whatever the cause is bringing with it larger, more frequent weather events

What does the ICLR believe can be done to mitigate loss?

- **Structural Measures** – “Change the Hazard”
  - Building of dams, levees, sea walls etc... for flood and storm surge protection
  - Updated building codes reflecting advances in understanding of climate change
  - Better research leading to improved warning systems
  - Proper land use planning, for example making sure marshes and other natural barriers to wet events are kept healthy

- **Non-Structural Measures** – “Change the Attitude”
  - Improve safety and how we live to be more prepared and resilient for when disaster hits.
  - Increase public awareness of warning signs/risks

- **Transfer**
  - Increased reliance on insurance sector to support research in climate extremes and loss prevention

Insurers and the ICLR must continue to work together to support research for better disaster management and promote better building practices. The ICLR concentrates its efforts on housing, municipal government and cities and small businesses. Lots of research is done to see how different events affect certain housing stock, down to the smallest detail like the nails used in the roof.

More generally we were told that Canada is one of the only G8 countries without flood coverage for homeowners, and at the moment such coverage may be impractical as only those at risk would buy it, meaning there wouldn’t be enough premium to cover the pool of risk. Glenn and the ICLR see the solution as folding all water perils into an All Risk wording, where the premium could not be split out.

As you’d expect, the ICLR has many projects and initiatives that are on-going. One of the most exciting is the ground-breaking ‘Three Little Pigs’ project that puts a fully functioning home inside a laboratory. This aims to have the home undergo CAT type stresses to see what fails, why it fails and what can be done to prevent it from happening. Other projects include research into tornados using the WindEEE (Wind Engineering, Energy and Environment) Dome, a world first that can simulate an F3 tornado. This allows building codes to be tested for their resilience and advice to be given by the ICLR when these codes are revised periodically.

Overall, as Glenn outlined during his talk, the insurance industry exists to help people who suffer loss and to help them recover. The ICLR are trying to prevent natural hazards from going that extra step and becoming catastrophes.

We thank Glenn for his time in what was a very busy week for him and direct you to the ICLR’s website for further information on their research initiatives - [www.iclr.org](http://www.iclr.org)
Our next port of call was to visit one of the most iconic buildings in Canada, which previously held the title of the world’s tallest free-standing structure before being eclipsed by the Burj Khalifa and Canton Tower in 2010. The Canadian National Tower, or CN Tower as it is more commonly referred to. Now primarily used for communication purposes and as an observation tower, this was the U30’s Groups chance to survey the glorious views across the Toronto cityscape, and given that the skies were bright and clear we were not disappointed. The jaw dropping views across Lake Ontario, watching the now ant-sized people wander around on the surface beneath the glass floor and the breezy observation deck created some fabulous photo opportunities for the whole group.

We learnt that the tower was completed in 1976 by the Canadian National Railway in Downtown Toronto to help overcome some of the broadcasting issues that faced the city. A 102m tall metal broadcast antenna sits on top of the main concrete portion, carrying TV and radio signals. The idea later came that the SkyPod could provide views at 1,465ft which visitors would pay to see, and at the same time help to re-coup some of the construction costs. The construction cost finally reached CAD $63m (equating to $243m in 2013), which was repaid inside 15 years.

The CN Tower’s official height is 1,815.4ft. Whilst construction, particularly in the Eastern world, means that it slowly continues to drop down the world’s tallest lists, the CN Tower still remains the largest free-standing structure in the Western hemisphere, and perhaps more prevalently, a symbol of Toronto and Canada.

Interesting Facts:

As well as the stunning views provided by the CN Tower we also took the opportunity to take in the array of facts which are on display throughout the building:
- The CN Tower was built to withstand an earthquake of 8.5 on the Richter scale (the Kobe earthquake in 1995 was 7.2 on the Richter scale). Despite it being a calm and sunny day during our visit, the upper reaches of the CN Tower are built to withstand winds up to 418 km/h (260 mph).
- Lightning strikes the CN Tower an average of 75 times per year. Long copper strips run down the CN Tower to grounding rods buried below ground to prevent damage.
- The CN Tower dims unnecessary exterior lights during bird migration seasons to prevent bird injuries.
- Six glass-faced elevators travel at 22 km/hour (15 miles/hour) to reach the observation deck in 58 seconds.
- The CN Tower’s Glass Floor was the first of its kind when it was opened in June 1994. It is 23.8 square meters (256 sq. ft.) of solid glass and 5 times stronger than the required weight-bearing standard for commercial floors. If 14 large hippos could fit in the elevator and get up to the Observation Deck, the Glass Floor could withstand their weight.

The CN Tower also holds some of the World records for the following attributes:

- World’s highest glass floor panelled elevator – 1,135ft – 2008 to present.
- World’s highest bar (Horizons Restaurant) – 1,135ft – 2009 to present.
- World’s highest and largest revolving restaurant (360 Restaurant) – 1,152ft
- World’s highest wine cellar - 1,152ft.
Locke Lord Bissell & Liddell

Wednesday 8th May 2013

111 South Wacker Drive, Chicago, Illinois

On Day 3 of the tour we were honoured to be hosted by Locke Lord Bissell & Liddell, a full service, international law firm. U.S law firm Locke Lord has a very strong reputation for dealing with complex litigation, regulatory and transactional work. It is through this and specializing in similar classes of business that Locke Lord and Lloyd’s have enjoyed a long standing relationship.

Locke Lord has well respected practices in:

- Aviation
- Business litigation
- Energy
- Environmental
- Financial services
- Health care
- Intellectual property
- Litigation
- Mergers and acquisitions
- Private equity
- Public law
- Real estate
- REITs

We had the opportunity to sit in on various court cases with a Locke Lloyd Attorney and discuss the US legal system with our host. Some groups were fortunate enough to have an informal discussion with a Judge.

Group 1 visited The County Court of Cook County

Group 2 visited The Federal District Court

Group 3 visited The Circuit Court of Cook County

An account from Group 1

Host: Keith Parr, a partner in Locke Lord’s litigation department and leader of the firm’s IP Pharmaceutical group (Locke Lord Chicago office).

Group 1 visited the state courtrooms at the Daley centre and observed two very different cases:

Judge - Honourable Brigid Mary McGrath (State of Illinois Circuit Court of Cook County)

Prior to the hearing we had a brief discussion with the judge and learnt that US law comes from statute and common law, except in one state (Louisiana), and that the court system is extremely political due to judges being elected locally.

The case we sat in on was regarding the enforcement of warranties for consumers and a dispute over what constitutes a “consumer” according to the Magnuson-Moss Warranty Act.

In summary, Mid Atlantic Systems (the plaintiff) had filed a suit against Stevens Pump Company (the defendant) over a disputed warranty claim for faulty pumps sold with 7yr limited warranty. At the same time, Stevens Pump filed a counterclaim of warranty fraud arguing that Mid Atlantic Systems should not be deemed a consumer, nor a “first end user”, but rather a reseller and therefore not in a position to evoke warranty, as per the Magnuson-Moss
Warranty Act. This act was enacted in 1975 as federal statute to govern warranties on consumer products and included a definition of consumer to mean “a buyer of consumer goods for personal use”.... and that “a buyer of consumer products for resale is not a consumer”. Our tour group witnessed attorneys from each side presenting their case to the judge, after which the case was adjourned for a month.

An account from Group 2

Hosts:  Julie Johnston, a litigator in Locke Lord’s Chicago office and Jack Elum who serves as Staff Counsel in the New York office of Locke Lord LLP to a US Federal District Court.

Group 2 visited the Federal Courts which make up the judiciary branch of federal government of the United States organized under the United States Constitution and laws of the federal government.

The courts are one of the three coequal branches of the federal government, and include:

- Highest court (Supreme Court of the United States),
- Appellate courts
- Original jurisdiction (which include general trial courts).

The United States district courts were established by Congress and are the general trial courts of the United States federal court system. Both civil and criminal cases are filed in the district court, which is a court of law, equity, and admiralty. There is a United States bankruptcy court associated with each United States district court and each federal judicial district has at least one courthouse, with many districts having more than one.

Federal Case

Judge John W. Darrah - United States District Court for the Northern District of Illinois

Group 2 observed a Criminal Trial whereby a Chicago Police officer (the defendant) was being prosecuted for a kickback scheme for referring tow-truck drivers to accident scenes in return for payment. The officer would take control of motor accidents and scenes and immediately find out whether the motorists had insurance and at what level. Allegedly, he would use this information to decide whether to call the tow-truck driver as to the levels of possible profit to be made. Cars with no insurance were of no interest. As a sergeant he had a level of seniority where he was able to control motor accident scenes and alert specific two-truck drivers who he had allegedly been taking bribes from.

The tow-truck driver who was helping the prosecution had previously been prosecuted for other offences, and so the FBI had indicated to a potential reduced sentence if he aided the prosecution as a witness, and testified against the Chicago police officer.

An account from Group 3

Host: Matt Kalas, Attorney at Law with Locke Lord Chicago. Matt specialist in aviation insurance and also has experience with product liability and transportation matters across multiple jurisdictions.

Group 3 visited the Circuit Court of Cook County

Trial: Abbott Laboratories vs. Milton Tietz

Judge: William J Haddad presiding over
The final group sat in on a Federal court trial surrounding the use of Humira, a drug for arthritis. Delores Tietz (the Plaintiff) was prescribed Humira, a TNF Blocker, for rheumatoid arthritis in October 2009 and took the drug for close to seven months, before almost dying. In early May 2010, Delores began experiencing chest pain and fevers. Her illness went undiagnosed for weeks before being diagnosed her with Humira-induced disseminated histoplasmosis, a severe, life-threatening infection.

The FDA issued an alert in September 2008 to all manufacturers of TNF blockers, including Abbott Laboratories, to provide new information to the medical community about the risks of unrecognized, drug-induced histoplasmosis. Abbott failed to send a letter directly to physicians warning of the danger until May 17, 2010, 20 months after the initial FDA alert and 10 days after Mrs Tietz was hospitalized. The jury found that Abbott was negligent for not taking reasonable measures to make sure Delores’ doctors had a high index of suspicion for histoplasmosis.

**Verdict:** Cook County jury entered a verdict finding Abbott Laboratories negligent and ordering it to pay $2,244,063.20 to Plaintiff Milton Tietz on behalf of his wife, Delores Tietz. The court entered judgment in that sum, plus costs, in favour of the Plaintiff. This is the first Humira lawsuit filed against Abbott to go to trial.

The trial was about 2 weeks long and the case had been pending for a little over a year. It is the first Humira suit to go to trial and verdict and likely to provide guidance for how future claims are handled.

After our interesting morning in the courtrooms the Locke Lord team kindly arranged lunch on a sunny roof terrace overlooking the Chicago Cubs baseball game!
The team headed to the Chicago Mercantile Exchange, the financial and commodity derivative exchange for a meeting kindly organised by CNA. We were greeted by our extremely friendly and interesting host, Emily Terzis, a Senior Specialist of Public Affairs at CME Group, and shown to the viewing gallery.

CME was founded in 1898 as the Chicago Butter and Egg Board as a not-for-profit corporation specialising as an agricultural commodities exchanging and in November 2000 it became the first U.S. financial exchange to demutualise and be a shareholder owned corporation. In December 2002 there was an initial stock offering to the general public before a merger with the Chicago Board of Trade launched them into a designated contract market of the CME Group Inc in July 2007.

The team was shown two separate trading platforms, each made up of multiple trading pits. Within these pits, trading of interest rates, equity indexes, foreign exchange, alternative investments, energy and metals takes place.

Futures contracts are formalised agreements to sell or buy a product or financial asset at some point in the future. A price is agreed by both parties today and the settlement happens at an agreed later date. With Options, the buyer pays a price for the right to buy or sell, but with no obligation, a product or financial asset at some point in the future. This means traders can limit potential losses while maintaining the possibility of profit from changes in the futures price.

When asked who trades at the CME our guide confirmed that pension funds, investment advisors, broker/dealers, portfolio managers, corporate treasurers, commercial and investment banks and even individuals are present.

We were lucky enough to be shown around during trading hours and were able to see, first hand, the trading practice known as Open Outcry. This is where the floor traders communicate orders, prices and quantities via a number of shouts and hand signals and the atmosphere was electric. Traders wear different coloured jackets to indicate whether they are traders, runners, CME employees etc. The hand signals adopted are called “Arb” and were introduced in the 1970’s and although the pits looked chaotic and confusing to us, this system allows for clear communication. It also allows CME to revisit CCTV footage in the event of a dispute.

The hand signals adopted shows whether the trader is looking to buy or sell whilst also showing the price and quantity. If they are looking to buy, the trader has their palms facing them and if they are looking to sell they have their palms facing outwards. Signalling in front of and away from the body indicates price and signalling near the face indicates quantity. For example:
Richard Blake-Lawson wants to sell a particular product at $\frac{1}{4}$ cent

- Palm facing out = Sell
- Hands in front of body = Indicating a price
- Fingers = Price

Nicholas Marshall wants to buy a particular product at $\frac{1}{4}$ cent

- Palm facing body = Buy
- Hands in front of body = Indicating a price
- Fingers = Price

Sarah Harris wants to sell a particular product at $\frac{1}{2}$ cent

- Palm facing out = Sell
- Hands in front of body = Indicating a price
- Fingers = Price

Richard Force wants to buy 50 contracts

- Palm facing body = Buy
- Hands in front of face = Indicating a quantity
- Fingers = Quantity

Christopher Hill wants to sell 8 contracts

- Palm facing out = Sell
- Hands in front of face = Indicating a quantity
- Fingers = Quantity

Traders are also kept up to date with prices via constantly updating Wall Boards. Although many traders will have this information on tablets, the exchange makes this information available to all via these boards. Interpreting them can be confusing at first, but they are structured as follows:
As well as the trading floor, there is also the CME Globex, which is their electronic trading platform where 80% of all trades now take place. Almost all of the products traded in the pits can be traded electronically 24 hours a day since its launch in 1992 with some traders in the pits using tablets to trade simultaneously. The obvious advantages to this style of trading are access and speed. On 19th October 2004, the one billionth transaction was recorded. When asked about their cybercrime and contingency planning, we were assured that this was something CMA took very seriously and they have dedicated resource in the area.

As a Designated Self-Regulatory Organisation (DSRO), the CME had primary regulatory-audit authority over firms such as MF Global.
The Lloyd’s brand profile remains a strong player within both Surplus Lines and Reinsurance Markets accounting for approximately $6.27bn of processed premium in the E&S Marketplace and $4.92bn of reinsurance premium in 2012. Lloyd’s has been able to leverage its strong financial strength and reputation to become a key player in both arenas despite the on-going threat of strong competition from both new and existing market entrants. In a mature marketplace, Lloyd’s was able to grow its overall premium base in the US by $350million in 2012.

The Lloyd’s Office in Illinois originally obtained admitted status in 1927. Alongside Kentucky and the US Virgin Islands, the three locations represent Lloyd’s only admitted presence within the US. At the time of writing, these markets account for approximately $201m of premium.

The Illinois Office plays an important role in ensuring that both Underwriters and Insured’s use forms which have been filed with the Illinois Department of Insurance. All Illinois Lloyd’s risks must be submitted to Lloyd’s Illinois to allocate a status as either licensed or surplus line.

In instances where filed forms are utilised, a risk is considered to fall under the license of Lloyd’s Illinois. Otherwise, the risk is deemed to be surplus lines and, as such, is subject to any relevant surplus line laws, taxes and fees.

Lloyd’s ability to offer this dual platform functionality in Illinois provides a unique competitive advantage with a number of benefits:

- A comprehensive solution for Underwriters via an ability to write on admitted basis or surplus lines basis depending on product or market.
- Potential tax and/or fee savings if opting to pursue a licensed route
- Lloyd’s is able to access business “first hand” as opposed to having to wait for domestic carriers to first decline business (i.e. traditional surplus lines model)
- Licensed status permits additional security measures via the Illinois Guaranty fund which is able to assist in the event of an Insurer becoming insolvent.

The team at Lloyd’s Illinois are able to handle both Open Market and Binding Authority Business and have several responsibilities. These include, but are not limited to:

- Filing admitted policy wordings with the Illinois Department of Insurance
- Assisting in determining if Lloyd’s Illinois business is admitted or surplus lines
- Countersigning, recording and reporting all Lloyd’s business representing Illinois Risks
- Registering Open Market correspondents
- Advising Lloyd’s on cover holder approval
- Championing and promoting the interests of Lloyd’s in Illinois
- General regulatory and financial reporting

In recent years, the team have been able to benefit from advances in technology in order to improve operational efficiency and effectiveness. This has assisted in streamlining the service offering of the platform. For example, the growth of E-Processing initiatives, such as digital document management, data file downloads, and electronic countersignature has assisted tremendously with time savings and an ability to share data more easily between different stakeholders and interest groups who interact with Lloyd’s Illinois on a day-to-day basis.

In the aftermath of the visit, Lloyd’s and the Under 30’s group were kindly treated to a drinks reception hosted by the Surplus Line Association of Illinois. The group were extremely grateful for the warm reception and hospitality and found the opportunity invaluable to learn more about the processes, practices and customs of their US counterparts and colleagues.
Hylant Group – A meeting with Neil Silverblatt

Friday 10th May 2013

Burnham Hotel, Chicago, Illinois

This presentation was carried out by Neil Silverblatt, who joined Hylant Group Inc in 2011 as part of the Property & Marine Risk Practice. Neil graduated from the University of Wisconsin (Madison) with a B.A. in risk management & insurance and finance, investment and banking. Prior to joining Hylant Group, he gained a decade of experience in the global property unit at Marsh where he specialized in large global property and placements.

Neil started off with an overview of the company and how it was originally founded by Edward P. Hylant in 1935 in Toledo Ohio, where it is still based today. The company has grown significantly since and now has a presence in the following 6 states; Florida, Illinois, Indiana, Michigan, Ohio and Tennessee.

Hylant are amongst some of the largest privately held Insurance brokers in the United States. Neil explained the spirit of the organisation is somewhat entrepreneurial and hardworking, which is evidenced in the flat structure of the organisation.

The company having its roots in the Mid-West has led way for its strong current mid-western footprint. The mid-western market is a relationship driven market, making it a harder market for new comers to enter. This is evidenced in the fact that Hylant pride themselves on being privately owned and answering directly to clients and not shareholders.

Hylant remain very strong in the casualty arena, and this is evidenced in their retention rates, which are as high as 92% on renewals. They have strong relationships with a number of insurers and are positioned well to negotiate levels of coverage and pricing for clients.

They have also developed strong capabilities in other disciplines such as; Aviation, Environmental, Construction & Surety, Marine & Property and Executive Risks. In the near future Hylant are looking to take advantage of opportunities they see in the Terrorism, Healthcare, Retail and Manufacturing markets in an attempt to further balance their book.

Within their own footprint Hylant wants to be in a position to compete with the big three; Aon, Willis and Marsh. In order to do this Hylant utilises its membership of the Worldwide Broker Network (WBN) in order to provide their service on an international basis. The WBN is one of the world largest alliances of independent brokers and spans across Asia, Europe, the Middles East and North and South America. In lien with their brand Hylant remain ultimately responsible for the performance of their WBN partners.
Western Re

Friday 10th May 2013

Burnham Hotel, Chicago, Illinois

We were delighted to receive a talk from Jon Knouse; President of Western Re. Jon has many years of experience in the Insurance sector and made his presentation very interactive and interesting.

Western RE started operating in 1972 is as an Underwriting Agency for many US & European Insurance companies in the excess and surplus lines market. Their headquarters are in Los Angeles with another more recent office opening Chicago in 2006. Western Re has spent the last 40 years building a reputation as one of the leading specialist commercial Earthquake markets in the United States.

Jon began the presentation by giving us some interesting facts about Chicago:

The city was founded in 1833 having previously been a trading port.

The name ‘Chicago’ is derived from the French word for ‘stinky onion’

The moniker ‘Windy City’ actually relates to the hot air coming from the mouths of politicians rather than the weather!

Chicago is second only to Warsaw in respect of Polish residents and is also home to 30 Fortune 500 companies.

Western Re Appetite

Western Re write primary, buffer and excess layers up to USD 20m; with their current main focus being Primary critical Earthquake exposure in California. They also write some business in the Pacific North West and New Madrid region, but the pricing is not always adequate and the building codes are not as rigorous.

Pivotal to Western’s success is that that they have the capacity to write in the major cities where there are large peak concentrations. They offer Earthquake only policies as well as “Difference in Conditions” (including earthquake and flood) policies on their pre-agreed policy forms. Western Re also began writing stand-alone terrorism business in the post 9/11 era. Fortune 100 accounts are generally seen as more London market business and so are not targeted by Western Re; their emphasis is to write stable medium to large sized commercial risks.

Along with their vast Underwriting experience Western Re also utilise the science behind the catastrophe modelling systems in use today, using detailed construction information, including soil type, age of buildings, number of stories etc.
Relationships

Having built up a large distribution base over the last 40 years Western Re enjoys a good relationship with many nationwide wholesale brokers including Marsh, Swett & Crawford, AmWINS, CRC and Tri-City to name a few.

Western Re has enjoyed a successful partnership with many Syndicates in the Lloyd’s Market since 1980 and currently put in USD 35M of premium annually into Lloyd’s and has high praise for the way the London Market transacts business. Lloyd’s has a great reputation for timely and decisive underwriting.

Current Climate

It is currently deemed to be a soft market and many Insured’s are still viewing Earthquake coverage as a luxury item, when this should not be the case. However, Western Re believes that they can hold their base rates and in some instances achieve slight increases. With the industry becoming increasingly more model driven with RDS event scenarios playing an important part in determining capital requirements, it is essential that companies provide quality data in a timely manner to their clients so that they can run the information through their own CAT modelling systems.

Jon’s concerns for the future include flood capacity in the market; currently the wind market is a lot larger than that of flood. He is sceptical as whether the next large CAT event would be market changing and cause significant hardening of the market.

Terrorism Capacity and Thoughts

Western Re also offers full terrorism coverage in the United States for acts inspired by both foreign and domestic groups (TRIA offers foreign acts only). The pattern of terrorist attacks on western targets since 9/11 has blurred the distinction between the two and prompted many clients to seek more complete coverage to which Western Re has adapted for a range of commercial, industrial and governmental clients United States wide. Western Re are able to write full value policies as well as primary and excess layers and Jon told us their maximum participation is USD80M per risk and they have ‘A’ rated capacity available in all major metro areas.

Finally, when we asked Jon what his thoughts were regarding the uncertainty of the Terrorism market following TRIA’s potential expiration date of 2014; he feels that with current events (Boston bombing 15 April 2013) pressure is mounting on Congress to renew the Act once again. It is not a forgone conclusion though and there is plenty of capacity in the market to absorb the risk. If the Act is non-renewed then we may see a potential doubling of rates.
Grotefeld Hoffman Schleiter, Gordon & Ochoa’s

Friday 10th May 2013, Chicago

Live Fire Burn, Orland Park.

After meeting David Evinger and Emily Hennen in London and knowing that they are long term supporters of the tour we were very much looking forward to spending the day with the Grotefeld Hoffman Schleiter, Gordon & Ochoa Attorney’s. We were promised an exciting tour and they did not fail to deliver. They had kindly arranged for us to visit the Orland Fire Department Training Centre for introductions and an overview of fire analysis by the experts.

Fire Analysis

After meeting the experts at the centre we were given an interesting and informative overview of Fire cause analysis. We learnt that fire experts must be certified to conduct fire cause analysis and throughout their practice must familiarise themselves with the below two documents:

1) NFPA 1033 which is the standard for fire investigators. This must be known inside out by the fire experts.

2) NFPA 1921 tells the investigator how to do the things he is required to do in the NFPA 1033.

- We were taught about Pyrolysis, the process in which solid molecules heated at high temperatures irreversibly change their physical form into a gas. Severe Pyrolysis, also known as carbonisation, results in a carbon residue being left.
- The three methods of heat transfer: Conduction (steady heat flow through a solid), Convection (heat transferred from moving fluid) and Radiation (electromagnetic waves).
- The different stages that occur during a fire were explained to us and are outlined below:
  - Ignition
  - Early Fire Growth/plume development
  - Smoke filling the room
  - Smoke escaping vents
  - Approach to flashover
  - Post flashover

- In order to extinguish a fire as quickly as possible, Firemen must target the V pattern within the blaze.
- Calcification causes marks on the wall and can be used by the computer model to accurately predict the fire pattern.

The importance of the fire triangle was emphasised. The triangle has three key aspects: Eye witness, First responders and the Scene itself.

The Live Burn

Upon completion of the fire analysis briefing we were fortunate enough to watch a live fire burn of a purpose built living room. As a group we were able to see for
ourselves the stages of fire development which we had just been taught and just how quickly a fire can spread throughout a room.

The below photos show the fire’s development and our attempt to extinguish it:

The point of ignition to the fire being extinguished lasted less than 5 minutes with all furniture being destroyed in the process. The speed of how quickly the fire spread was a huge surprise for the whole group.

**Tour of the Training Facilities**

Once the live burn had been completed we were then allowed to walk around the training facility with the Fire Marshalls, having the opportunity to see all training equipment, fire equipment and fire analysis equipment at use. One of the key components in fire analysis is the use of computer simulation models which analyse how the fire started, where it started and how it spread. The model is used for training all fire investigators in Chicago and is frequently tested for accuracy.
The United States Geological Survey organisation was formed on March 3rd, 1879 following an Act of Congress. It is a scientific organisation whose primary objective is to increase the understanding of complex natural science phenomena and ultimately provide scientific products offering solutions.

Mission Statement

“The USGS serves the Nation by providing reliable scientific information to describe and understand the Earth; minimize loss of life and property from natural disasters; manage water, biological, energy, and mineral resources; and enhance and protect our quality of life.”

The USGS employs 10,000 scientists, technicians and support staff across 400 locations in the United States. They collect, monitor and analyse data to provide scientific understanding about natural resource conditions, issues and problems.

The Georgia Water Science Center (GA WSC)

The Georgia branch of the USGS, which we had the opportunity to visit, has been in existence since the 1890s and is one of 48 Water Science Centres within the Water Resources branch within the overall structure of the USGS.

We were shown around the offices where the support functions for the operations are completed and also the laboratories where the scientific analysis is undertaken, including the analysis of specific samples from the field. These samples are manually collected and so the Centre also had a considerable number of scientific vehicles attached to it which allowed this function to be completed.

The presentation gave us an overview of the organisation but also some specifics on how the team gathers the relevant data to assess the state of the water resources and how it uses this information in practical terms.

The primary method of collection is via a network of 333 stream gauges. These are permanent measuring devices that allow hydrologists to monitor the water levels of terrestrial bodies of water. As well as monitoring elevation they can also monitor volumetric discharge or ‘flow’.

Out of the 333 gauges, 294 are capable of computing discharge and 266 can measure rainfall. The information they gather is then transmitted hourly via satellite which once processed and combined with other sources creates a flow for a specific region.

The GA WSC also aims to provide “Annual Exceedance Probability” calculations which are more mathematical and percentage based than the traditional yearly definitions such as 1 in 100. This will in turn give anyone direct information to the likelihood of flooding for any particular area, including the use of sensor maps to show high hazard areas.

In certain areas the GA WSC are also completing “Flood Inundation Mapping” which involves extensive research into a very specific area. Ultimately the exercise provides the ability to predict the extent of flooding based on a whole
range of different severities and criteria. To complete an exercise of this nature the team require stream gauge data, a Named Windstorm Flood Forecast point, high quality elevation data and ultimately money to complete the study.

The benefits to this approach are:

- Ability to monitor the impact on wildlife.
- Improved response times and enhanced estimates for potential damage to infrastructure such as bridges.
- Enhanced co-ordination of health departments in the wake of a disaster.
- Improve warning systems, highlight evacuation routes, evaluate potential barricades and enhance the education of these issues to the local populace.
- Promote additional signage to illustrate where previous water levels have risen to following an extreme event.

The GA WSC forms partnerships with Federal, State, and local agencies, and other public organizations to ensure the work they complete is relevant and useful. The funding for the work comes from a variety of sources, including direct Federal appropriations, other Federal agencies, and a cooperative program that allows the Georgia Water Science Center to partially match funding with state and local agencies.

The chief purpose of hydrologic projects is to help cooperating agencies solve water problems. The projects typically completed focus on:

- Developing storm-water runoff areas and ground-water management plans
- Identifying areas of water-quality degradation
- Water-quantity and -quality assessments
- Toxic substances in natural waters and biota
- Rural and urban nonpoint pollution
- Saltwater intrusion
- Surface-water / groundwater interactions
- Sediment transport and chemistry
- Effects of climate change
- Wetland functions and hydrology
- Aquifer and stream flow characterizations
- Frequency and magnitude of droughts and floods

The GA WSC also completes a significant amount of critical work during times of excessive rainfall and flooding and this often involves obtaining additional measurements on the ground as a weather system develops or impacts the state. A recent weather event in 2009 led to 21 inches of rain in a 24 hour period.

17 Counties in total received disaster declaration from the US government after the Governor of Georgia, Sonny Perdue declared a state of emergency. Some 20,000 homes, business and other buildings received major damage during the event and the flood was also blamed for the loss of 10 lives.

The floods were historic, breaking records that went back more than a century in some locations. The Chattahoochee River, the largest river in the region, measured water levels at a 500-year flood level.

Given the potential for future disasters on the level witnessed in 2009, the work that the GA WSC completes is of major importance as it continues to improve warning systems, forecasts, flood control, probability and bridge design.

Whilst prevention of such events is unattainable, improving preparedness, education and flood defences is always a viable objective and an area the GA WSC will continue to work within.
A group of senior employees of J Smith Lanier & Co kindly gave up their time to give us a brief overview of their respective departments. Among them were:

Matthew Wright – Vice President, Complex Property
Peter Krause – Vice President and Managing Director
Rosemary Blair – Vice President, Property & Casualty
Patrick Marcotte – Vice President, Risk Control
Doug Johnson – Vice President, Aviation
Jerry Hedgepeth – Vice President, Claims

We were introduced to the history of the firm; in 1868 at West Point GA, two brothers being Ward Crockett Lanier and Lafayette Lanier opened a small private banking and Insurance agency. The agency overcame the odds and survived adversity including the Great Depression in the 1930s. It was then that J. Smith Lanier, a successful businessman who had capitalised on the booming telephone industry, took the reign of the company and led it on its path to success.

J. Smith Lanier & Co today is the sixth largest privately-held broker and the twenty-third largest broker in the United States. The company has spanned through six generations of one family’s leadership and now JSL have grown into an employee-owned company with offices across Alabama, Florida, Georgia, Kentucky and Tennessee.

Each of the above mentioned hosts talked through their various operations, while a fellow Englishman, Matthew Wright brought our attention to their strategies and successful attempts in attracting new business and retaining it thereafter. JSL’s primary objective is finding their niche in the market, and once established they market their skills and expertise in order to set them apart from the competition. They do not rely on competitive pricing alone, because ‘if you win on price alone, then you can be beaten on price alone’.

JSL focuses on building long lasting and close relationships with their clients, having the incentive to promote teamwork, collaboration, innovation and developing awareness of the objectives and needs of such. The company targets middle income companies and its revenue is predominantly generated by their Property & Casualty (56%) and Benefits Consulting divisions (40%). They also offer risk management (often a key feature of accounts that they win), risk control, claims and underwriting services for their clients, as well as working closely with their clients’ human resources departments.

Since 1999 JSL has seen its revenue growth increase by $82m and today generates $114m with the aid of the acquisition of Anderson, Williams & Co in March 2007 which helped boost its income by $22m in a single year. With much of this revenue coming from their Property & Casualty, this progressed to become the main focus in the presentation. JSL are specialists in complex property accounts; this includes accounts which have multi-state exposures, high-hazard exposures, diverse occupancy classes and heavy catastrophe exposures. They see themselves as experts with identifying exposure base, most notably with catastrophe risks, terrorism and political risks and business interruption. Their relationships with the main global centres of insurance ensure that they can get the best terms for their clients and being an employee-owned company gives them the luxury of having no geographical limitations.
Monitor Tyres

Paul Starner, the President of Monitor Manufacturing Tyre Manufacturing for 8 years, was able to offer the Lloyd’s U30’s Tour a unique insight into the factory which we visited thanks to JSL.

Monitor tyres is a subsidiary of the Taiwanese Rubber Company Kenda which employs 10,000 people worldwide, of which 400 are in the US. The plant at Cartersville, GA is the company’s main location in the US.

Once we had been given a run-down of the history of the company and the plant, we were fortunate enough to be given a tour of the whole site. We were introduced to the entire production line from getting the ready-made tyres delivered to the plant and stored in pallets, then being able to view first-hand the process of creating the rims for the wheels. There are two large machines that punch the rim design into the stainless steel. These machines are able to operate independently and supply different lines should any one of them be out of action or need repair, right to the end result of cooling and inflating the finished product.

From an insurance standpoint, the plant was both ventilated and a sprinkler system evident throughout. They do not consider there to be a supply chain issue, as they have a huge amount of stock on site. The only issue that they might have is storage of finished stock: they are restricted as to the storage height. They need to keep shipments leaving the plant in order to store newly finished orders. However, this has never been a problem at the plant.

The tyres produced are mainly used for golf buggies, lawn mowers and trailers.
RKMC have been involved with the Lloyd’s U30 tour for a number of years and this was an extremely interesting and useful day of the study tour. James Chin and Taylor Davis put this detailed case together for us, fitting in a visit to London to depose four of our tourists for the trial!

The lawyers firstly introduced us to what we had in store for the day which was essentially a two part exercise in which we were exposed to both the non-binding mediation process followed by the full jury trial.

Firstly, James explained the processes a claim can go through. These are:

**Mediation** – This is a voluntary process that parties are not forced into. Mediation involves investing time and efforts into resolving an issue whereby you get to control the outcome. Mediations are confidential.

**Arbitration** – Arbitrations are more formalised and, unlike mediations, you are not in control of the outcome, rather it is a third party that decides what the outcome is. Arbitrations are governed by a set of rules and can have panels of one and upwards. People involved in arbitrations typically have some degree of knowledge of the law. Within arbitrations there are limited rights of appeal in that the final result cannot be appealed, but the process can be challenged.

**Trial** – A trial is much more formal and involves the use of a jury. You are not in control of the outcome in a trial, which is very much in the hands of a third party. A trial is much more expensive in not only cost but also time.

James also reiterated that the amount of time and costs of going to trials and arbitrations changes by which state the suit is filed. Some states will pay for fees and costs as part of the settlement (for instance, Florida) whereas this is not the case in several other states. This is an important consideration when pursuing or defending a claim.

We were provided with the brief beforehand but James ran through the case as a reminder for those that hadn’t been deposed and who weren’t testifying in the court room that afternoon. In brief – the case was based on a number of real insurance cases that have gone to court with the ‘story’ as follows:

“Harold’s department store filed suit against London Eye Syndicate with regard to a dispute over what deductible should apply to damage caused by a tropical storm to their store in Florida. On the binder a USD 10m deductible applied to hurricane damage. At 5pm the day before the hurricane hit, London Eye Syndicate issued their policy wording in which there was a USD 10m deductible for named storm damage only. The Hurricane caused USD 9m worth of damage to the store and as such London Eye argued that the no claims payment was due as the loss was within the policies deductible. Harold’s department store disputes this”

From RKMC Atlanta, James Kitces and Taylor Davis were acting as attorneys for the defence whilst Michael Silvestro of RKMC Boston and Elizabeth Burnett of Minneapolis were acting as attorneys for the plaintiff. The attorneys gave us an insight into the process of mediation, how the case is introduced and what negotiation points are put forward.

**The tourists/witnesses in the case were:**
Victoria Rodrigues de Costa – Risk Manager, Harold’s Department Store.
Richard Force – Broker, ABF
Sudhir Modhvadia - Underwriter, London Eye Syndicates
Laura Sampson - Claims adjuster
We were separated into four groups for the mediation, one representing the Insured, one the Insurer, one the broker and one which followed the mediator around through each of the rooms. James Chin acted as the mediator.

It was particularly interesting for the fourth group in the mediation as they were able to rotate around all the rooms and hear the different discussions and reasoning behind the offers and counter-offers. A salient view of the mediation process is how stubborn both parties can be despite the obvious benefits of settling in this process. This was well evidenced by the fact that the final offer of settlement from the UWs was USD1.5m which was rejected by the plaintiff. From the discussions both sides were having, it became apparent there was a case for E&O by the broker who had offered a 10% participation to the settlement.

As this case could not be settled at the mediation stage, it was taken to mock trail. The attorneys made their opening cases and then questioned the witnesses in turn. The witnesses performed their parts perfectly under the scrutiny of being in an actual court room with a Judge and jury present!

The stand out point to those watching the events unfold was how easily emails can be misinterpreted, and that it is absolutely essential that brokers have their files in order and are professional in their communication at all times.

When both sides had cross-examined all the witnesses, the jury were then left to deliberate in a different room. What was so interesting about this exercise was that the jury were being filmed whilst this was happening so we got to assess their considerations. It was fascinating to see what they had picked up on in the court case, how personal appearance and the way in which answers were said, swayed their decision-making.

In our case, the jury sided with the Underwriters as it became apparent that the blame should rest with the broker who appeared to make a mistake in the placement here.

This day was an invaluable experience for all participants on the tour as at some point in our careers, we will have to deal with claim situations. It’s a fantastic opportunity to learn the deposition, mediation and trial process as close to the real thing as any of us would like to be!

We are very grateful to RKMC for providing such an excellent learning opportunity and one that they had obviously put so much time and effort in preparing and hosting us for the day, as well as their respective London visits. It’s an experience none of us will forget.
Robert W Sherer Power Plant Southern Company

Wednesday 15th May 2013 –

Juliette, GA

Organised by Mcgriff, Seibels & Williams & Principal Engineer - Risk Management: Larry D. Shackelford P. E.

History

Plant Scherer is one of the largest power plants in the USA, run and operated by Georgia Power and is a producer of 3,520,000 kilowatt coal fired energy, servicing the south eastern region primarily Butts, Jones, Monroe and Bibbs county in Georgia.

Scherer features at number 147 on the latest Fortune 500 listing of the largest US corporations and currently employs approximately 26,000 people across Georgia Power and 6 joint venture partners being Oglethorpe Power Corporation, Georgia Power Company, Florida Power and & Light, Municipal Electric Authority of Georgia, Gulf Power, Jacksonville Electric Authority and Dalton Utilities.

Robert Wilson Scherer is the founding member of Plant Scherer and he was the previous CEO at Georgia Power.

Operations

The plant cost $2.1billion to construct and commercial operation started with Unit One being an 880,000 kilowatt unit in 1982. The three remaining units were put into production between 1984 and 1989 and today produce over 3,615 megawatts of electricity.

The plant covers a 3,500 acre operating area which is comprised of the 4 operating units, the coal storage yard, ash settling and disposal ponds as well as powerhouses and turbine areas burning 40 tons of coal per day and operating on a 24/7 basis, each boiler being capable of producing 5.8 billion pounds of steam per hour. Coal is driven to the boilers by a train system from the coal storage area, a 100 car train can be unloaded in half an hour, and all four boilers burn around 1,200 tons of coal an hour.

Lake Juliette, a 3,600 acre lake containing 35 billion litres of water is close to the Scherer site and serves as a coolant for the boilers - water is pumped through cooling towers which stand at 530 feet tall.

Georgia Power employs over 10,400 employees throughout the State of Georgia and with sales revenue of $8.8billion; the company currently serves 2.4M customers in all but 4 counties.

The plant is looking to decrease coal fired productivity even further than the 43% achieved in 2012 – their target is a 33% decrease by 2015 due to this method becoming less financially viable than say gas burning.

The Tour

The team were split up into two groups and given a private tour of the plant. First to the ground floor to four turbines, and then up to the roof which gave us an amazing panoramic view from the middle of the plant; from the lime quarries and coal dust, to the transmissions lines disappearing into the distance. A true sense of scale was achieved and ‘impressive’ was certainly the feeling of the day.
Property Loss Control at Plant Scherer

The Total Insured Values for Plant Scherer are based on a replacement value and the site currently contains around 3.5 miles of underground pumps and pipes.

Due to the remote situation of the plant, Scherer train their own staff to manage on site fires and there are two fire houses on site.

Housekeeping, hot works and inspections are monitored and highly maintained with 164 sprinkler systems in place and 86 fire hydrants as well as an air sampling system to detect fires.

Maintenance of machinery such as boilers and turbines are serviced every 2 and 6 years respectively. Good safety measures are also in place to ensure that Employer’s Liability losses are mitigated and that the loss history remains as good as is possible.

Scherer also has involvement in various habitat enhancements and participation by employees in environmental activities promoted by the company. Other social projects include Rum Creek wildlife management. Purchased by Georgia Power with a lease agreement with the game and fish division of the Georgia department of Natural Resources.

Due to the nature of the operations currently undertaken at Plant Scherer, standards of environmental control have had to be improved and since the 1990’s amendments to the Clean Air Act meant the face of power production was changed forever. Pollution and waste are highly regulated with 189 hazardous pollutants are controlled and the plant reports to the state Environmental Protection Division on a monthly basis. More than $178 million has been invested in pollution control equipment for the site whilst Southern Company shut down 2000 MW of coal power and converted to gas, Scherer committed to a 6 year, USD3 billion project of emission control. This was no easy feat as the original plant design did not allow for multiple bag houses and sorbent injectors. Key equipment had to be relocated and extra capital expenditure incurred to make room. The cost increase doesn’t stop there either as around double the energy is now required in the process compared to before the new regulation implementation – a power plant are after all their own biggest consumer.

20 years on and Scherer meets and exceeds requirements set by the Environmental Protection Agency (EPA), Environmental Protection Division (EPD), US Department of Energy, US Occupational Safety and Health Administration (OSHA). Electrostatic precipitators are now used to remove more than 99% of the fly ash from the flue gases that leave the boiler. Coal dust is damped down to protect from being blown into the local environment. Whilst there is still a question mark over CO2 emissions and impact on Global Warming, any progress with this must first come from the White House and other Governments around the world.
Turner/CNN Studio Tour

Wednesday 15th May

190 Marietta Street, Atlanta, Georgia

We visited the CNN Centre and enjoyed an exciting tour of their main studios. CNN is the original 24-hour news network and aims to deliver comprehensive, nonpartisan news and analysis to global audiences across all platforms. We were able to view their newsrooms, hear more about what goes on behind the scenes and also test out our own personal presenting skills!

CNN is a division of Turner Broadcasting, a Time Warner Company and joining us on the Tour were Brett Hellenga (Senior Director of Risk Management at Turner) and Neil Walls (Senior Manager, Risk Management Department at Turner). Who very kindly hosted a very interesting presentation outlining who Turner are and how they approach risk management.

Across their many operations Turner buy Political Risk, Cast, Disability (for wrestlers), Hull & P&I (HMS Bounty), Weather Cancellation, Public Liability, Employer's Liability, Property, Cyber and Intellectual Property insurance amongst others.

They very much appreciate the relationship that they have with Lloyd’s and respect the expertise, flexibility and imagination of the Lloyd’s market, especially when it comes to niche and one off exposures.

Neil Walls handles the day in day out property insurance program for Turner globally focusing on their entertainment and international risk. He gave us an umbrella view of Turner, who own and operate more than 100 branded channels in 30 languages in over 200 countries. Some examples would be CNN, TNT, TBS, True TV and the Cartoon Network. Turner is based in Atlanta and has 13,000 employees worldwide. The Atlanta operation is split between CNN Centre (the facility we visited) and their Techwood Campus. Techwood is essentially the nerve centre where much of their broadcasting and satellite feeds are based and also where they produce their entertainment output. Turner also have locations in New York (Time Warner Center), London, Hong Kong, Buenos Aires and recently Chile.

Turner has almost $3bn in insurable assets which is a combination of physical assets and business interruption. As mentioned above, Turner is a division of Time Warner Inc. and a sister company to Warner Brothers and HBO. The group has roughly $9bn in revenues annually derived mainly from subscription payments and advertising.

Senior Project Managers Paul Arbit, Andy Graves and Gail Grimes also presented to us on how they protect the revenues of Turner via the business continuity and recovery team (BC&R). They described how business continuity and recovery has evolved at Turner, how they protect their assets and the concept of plan writing with practical testing.

The millennium bug got Turner and other companies thinking about how they would prepare for a catastrophic event. The year 2000 came without incident but real events followed that which required Turner to be prepared and to show their resiliency, for example:

- 9/11
- Blackout of the North East in 2003
- Hurricane Katrina 2005
- Hurricane in Atlanta in 2008
- Ice storm in 2011 labelled ‘Snowmageddon’
The BC&R team explained that specific events or risks are the catalyst for the development of specific divisions. For example the setting up of the ISO (Information Security Office) came about due to the threat of cyber-attacks. The BC&R team along with compliance, information risk protection and security architecture support the new ISO organisation to protect against cyber-attacks. The company is now able to make better, more informed decisions and ultimately better manage a crisis when it occurs via cross department cooperation.

Managing a crisis for Turner hinges on their physical security and infrastructure. We were shown a video outlining what it takes to keep a 24/7 news operation on the air. If the city of Atlanta loses power they have batteries that will keep them on air until the generators start which is normally in about eight seconds. Away from CNN center they have mobile generators for use to cover events such as Hurricane Katrina. Logistics teams will set generators up to facilitate mobile broadcast wherever and whenever required.

Andy Graves outlined for us how Turner protects against a break in transmission which could potentially cause millions of dollars’ worth of loss. As mentioned above Turner has two main locations in Atlanta. This presents many advantages, if one location were to go down then the other can be used to maintain output. Turner has redundant compression centres at CNN Center and Techwood. The compression centre processes the signal for transmission. They also have two ‘teleports’ that get the signal up to the satellite. Each can handle the full load of Turner’s systems so they can switch back and forth between teleports and compression centres when needed.

If everything fails in Atlanta then they have the capability broadcast in NY via an uplink at the HBO facility. In a worst case scenario, they could play back programming from previous transmissions that are constantly being recorded and also relocate their staff to predefined spaces within different facilities. So Turner have geographical diversity but also a more practical recovery strategy.

Overall it was an extremely difficult task for everyone presenting to condense down Turner’s incredibly detailed and considered approach to risk management. We very much appreciated their time and for hosting us as well as giving us a greater understanding of how a global media broadcasting entity goes about protecting itself.
York Loss Adjusters kindly hosted the Lloyd’s Under 30’s study tour at the Dallas Cowboys stadium in Arlington, Texas. We were met by Danny Miller and his team from York Loss Adjusters as well as a group of representatives from the Dallas Cowboy Stadium itself. Also in attendance were representatives of the law firm used by the Dallas Cowboys, McCathern Law.

A tour of the stadium was then provided with the highlights being standing on the enormous pitch with some members of the tour attempting to throw a pass like a Dallas Cowboys Quarter back. The tour was very extensive enabling us to enter the changing rooms of both the players and cheer leaders and even try on some of the football equipment. We were shown where the college football Astro Turf pitches were stored and experienced one of the much coveted entertainment boxes. Our tour was followed by a dinner and presentation encompassing the creation, highlights and risk management features of the Stadium.

Background Information

The Dallas Cowboys joined the National Football League (NFL) in 1960 and have become one of the most successful sides in NFL history with five Super bowl wins to date. Originally based at the Cotton Bowl Stadium until 1971 the Dallas Cowboys moved to the Texas stadium in Irving, Texas. The owner and general manager of the Dallas Cowboys Jerry Jones, however, wanted to build a true “Texas” sized stadium and so through funding, enough money was raised to construct a brand new stadium. The funding included a significant amount from the Jones family, USD 150 million loan from the NFL and voters in Arlington approving increases of the city’s sales tax by 0.5%, the hotel occupancy tax by 2 per cent, and car rental tax by 5 per cent. The Cowboys Stadium eventually cost USD 1.2 billion to build and was opened on 21st May 2009 in time for the 2009 NFL season.

Highlights and features of the stadium

The stadium measures 320 foot from the centre floor to the roof, meaning that the statue of liberty could fit inside. It has a record capacity of 108,000 people who attended the basketball All-Stars game.

It houses one of the largest free standing high definition video screens in the world. The screen hangs over the pitch stretching from 20 yard line to 20 yard line with two screens facing the side-lines, measuring 160 feet by 72 feet, and two facing the end zones at 53 feet by 30 feet. Over 10.5 million light emitting diodes and 30 million light bulbs were used to create the screen which weighs 1.2 million pounds. The screen caused controversy when it was kicked by the Tennessee Titans punter A.J. Trapasso during a pre-season game in 2009. Since then a new NFL law was introduced that in the event of this happening again the kick is retaken. If the central television screen (shown below) isn’t enough for the spectators there are also a further 3,000 television screens within the ground.

The roof is fully retractable supported by two arches taking 9 minutes to open and 12 minutes to close. The pitch is a 5th generation Astro Turf that is fully removable in order to accommodate different types
of events inside the stadium. These include college and high school football games, lacrosse, soccer games, bull riding contests, gardening shows, monster truck rallies, motocross races and concerts.

Risk Mitigation Factors

The stadium boosts the World’s largest glass doors situated at each end zone that can be opened in 18 minutes. The glass that forms the sides of the stadium is designed to withstand winds of up to 150 mph. This aspect of the design is essential to help mitigate the impact of a tornado which is common in this area of Texas.

We were told about the excellent safety and security aspects of the stadium. The Arlington police department is on site for all events and a private security company operates 24 hours a day 7 days a week. Plus there are over 600 CCTV cameras within and around the stadium. There are first aid sites at 3 locations around the stadium. When fans enter the building they are Body searched and there are rumours that SWAT teams are hidden within the stadium on match days, but no one was able to confirm this piece of information!

The Cowboys Stadium is 10 times the size of Texas stadium however despite this monumental size difference their insurance premiums are 50% less. Due to the OCIP during construction and the mitigation measures taken when designing and building the stadium they have been able to save USD 4 million in their insurance renewals. The Cowboys have developed good partnerships with claims adjuster, general counsel, legal counsel and risk management firms which have led to a good claims history only experiencing 3 claims so far over USD 200,000.

Loss prevention engineering took place during construction; one example being that they replaced 3,000 feet of the pipes that were laid in order to meet FM safety recommendations. The floors on the concourse and concession areas of the stadium are purpose built to be less flammable then they usually would be. They are non-slip and easily cleaned in order to minimise trip, slip and fall exposure therefore potentially reducing liability claims.

All of the contracts with vendors and contractors require them to be enrolled in GRMS, which is a certificate and contract management system. This along with staff training and the requirement of incident reports to be completed by staff helps to highlight and reduce the hazards within the stadium. Importantly the risk manager and the insurance carriers regularly tour the stadium in order to identify potential hazards. This highlights the good responsible attitude that is adopted towards risk management of the stadium.
Ryan Turner Speciality

Friday 17th May 2013

8144 Walnut Hill Lane, Dallas, Texas

Hosts:  Stuart Dobbie – Executive Vice President
        Ben Ramundt – President (Texas Casualty)
        Rajan Shah – President (RT Speciality Dallas)
        James Darby – Senior Vice President (Property)
        David Saams – Associate Broker (Casualty)
        Patrick Claggett – Associate Broker (Property)

R-T Speciality were kind enough to host us for an informal breakfast meeting which gave us the opportunity to
network with various employees within their organisation and ultimately get a more comprehensive overview of
their company.

R-T Speciality is a subsidiary of Ryan Speciality Group, which is a global company consisting of wholesale brokers,
underwriting managers and other specialty insurance services to agents, brokers and insurance carriers.

The parent company is owned by Patrick Ryan, the retired Chairman and CEO of Aon Corporation. Ryan was the
founder of Ryan Insurance Co which merged with American Casualty Insurance Co in 1982 and was rebranded as
Aon in 1987.

R-T Speciality work closely with retail agents and have also established several MGA/ MGU platforms to facilitate the
transfer of their business. They specialise in property, casualty, professional liability, transportation and workers'
compensation.

Their primary objective is to identify and find solutions to specialised risk through collaboration between agents,
brokers and insurance carriers. The company does utilise the London market particularly within the Liability book
and RT Speciality currently places some business into Lloyds, mainly through Price Forbes & Partners.

Ryan Speciality is well established within the London Market. They are the parent company of Lloyds Insurer Jubilee
Group which currently operates two active Syndicates at Lloyds. Its core product lines are Affinity, Accident &
Healthy, Warranty, Credit, Property, Terrorism and Term Life. This acquisition has provided Ryan Speciality with
direct access to the Lloyds market.

Through one of RSG Underwriting Managers, Sapphire Blue, they have also recently announced a new liability
insurance program specifically for U.S small rural and specialty hospitals which wholly own RT Specialty, in
 collaboration with Lloyds Catlin Underwriting Agencies. The aim of this product is to enable smaller hospitals in rural
areas to take advantage of the risk management services which are typically available for larger entities and is a
good example of their bespoke client services.

Going forward the interaction with the Lloyds market is likely to increase given the main strategic objective of the
Group is to develop into a leader within the wholesale brokerage marketplace.
Gulf Coast Claims Service

Friday 17th May 2013

Hyatt Hotel, Dallas, Texas

Presented by Joel Moore – licenced adjuster

Joel gave us an insight into his career as an adjuster, the history of the GCCS, and the fact that there has remained a strong family involvement since it was established in 1963. GCCS serve as adjusters across many different lines of business throughout Texas.

Joel then went on to explain how claims are transacted in Texas; undisputed claims need to be settled within 30 days, this puts pressure on insurers and requires them to use adjusting firms that can move quickly to resolve the validity and quantum of a claim.

The recent explosion on April 17th 2013 at the fertiliser plant in Texas which hit the news headlines worldwide was something that Joel talked us through from the view of an adjuster:

The ammonia explosion in West, TX originated as a small fire. The emergency services workers (who were untrained for this situation) began fighting the fire with water; water combined with anhydrous ammonia produces a poisonous vapour cloud, which is a problem. After an hour of fire fighting, a massive explosion occurred and the emergency workers on site were instantly disintegrated. It is believed that the company had 54,000lbs of ammonia on site.

The USGS compared the explosion to a 2.1 magnitude earthquake with total destruction within a four block radius, and the force of the explosion would have been felt many miles away.

The plant itself, despite being built on the edge of the town was still moments from residential streets. The nature of pro-business states like Texas means that there are few planning laws to restrict this leading to situations where benign risks such as housing can be built next to industrial assets. Joel also pointed out that the town had not had an OSHA (safety) visit for 30 years.

As with all such situations, it is up to the adjuster to determine if the damage is accidental or whether some form of foul play is at work. Some of the signs that adjusters would of looked for when assessing the damage to the property in this case:

- Air over pressure – the force of the explosion moving out
- Flying debris
- Ground movement – again due to force of explosion

Joel moved on to looking at the quantum of a loss, and adjusters are able to using computer software such as ActiMate, which originated as a construction estimating software. This allows adjusters and insurance companies to estimate repair costs; anything from a simple repair to a rebuild. This can be updated regularly so that following an event such as a hurricane; pricing can still be accurate to reflect increased demand.
Zelle Hoffman Voelbel & Mason Attorneys

Friday 17th May 2013

Hyatt Hotel, Dallas, Texas

Background

Zelle Hoffman are specialists in insurance-related disputes, antitrust/competition and other business litigation focused in the US but also around the world. They have extensive experience in high-profile, high-exposure cases and are well practiced in representing both defendants and plaintiffs, giving their clients distinct advantages from the insight they gain from working on both sides of the dispute.

Zelle Hoffman’s expertise in insurance law is focused on first and third party property and liability coverage, reinsurance, subrogation and also natural and man-made catastrophes.

Zelle Hoffman’s reputation as a leader in their field is evidenced by the fact that they represented major clients in three of the four cases listed in ‘Insurance Cases of the Decade’ by Insurance Law360. These monumental cases were the World Trade Center claims, Hurricane Katrina and asbestos litigation.

We were very fortunate that Zelle Hoffman took time out of their busy schedules to provide us with such interesting and poignant issues that insurance professionals must consider in their everyday roles.

Part 1: Bad Faith in Middle America

We were given a presentation on Bad Faith claims which is a legal term unique to the law of the United States (but with parallels elsewhere, particularly Canada) that describes a tort claim that an insured person may have against an insurance company for its bad acts. Bad faith claims arise when an insurer wrongfully refuses to pay a claim or unreasonably delays payment of a claim. US premiums for these risks are usually higher than elsewhere due largely to there being no common law system at a national level as well as the use of juries to decide civil trials. Zelle Hofmann went into detail on the differences between Statutory Bad Faith, 1st and 3rd Party Bad faith and Common Law Bad Faith which is usually harder to prove. Bad Faith claims are common place in US litigation where a loss adjuster may be sued as an individual (which cannot happen in the UK). Insured’s sue usually for one of the following:

Contract damages – the amount owed under the policy

Actual/compensatory damages – amount to compensate insured for damages actually resulting from the Bad Faith

Punitive damages – damages meant only to punish the insurer for wrongful acts knowingly done

Prompt payment damages (independent of any wrongdoing)

Attorney’s fees

Part 2: US Law and Jurisdiction and the implications for Insurers:

This seminar raised the importance of knowing which jurisdiction applies and avoiding Judicial Hellholes and Home-Court advantages. When drafting policies insurers must interpret the contract and recognise that if it is impossible to avoid an unfavourable jurisdiction then it should be priced accordingly. In addition to this they should consider putting arbitration clauses in contracts as an alternative method of dispute resolution.
In order to understand the US legal system it is fundamentally important to acknowledge the fact that the US is made up of 50 states, each with its own set of enforceable laws. The laws which preside in California for example, are very different to those in the state of Delaware.

When the time arrives for a case to go to court it is vital that the case is filed in the correct court. In order to ensure this it must be determined if the court in question has the authority to hear and rule on the particular case. For any court to have authority to hear and rule on any case it must have subject matter jurisdiction (authority to hear the type of controversy at hand), personal jurisdiction (authority over the defendant individuals or entities), and be a proper venue (proper physical location for the lawsuit to take place).

It is important to be able to determine when a case should go to State Court and when a case should go to Federal Court. There are also alternatives to court which can be an expensive, time-consuming and stressful method of dispute resolution. Other ways of dealing with disputes include negotiation, mediation, appraisal and arbitration.

Insurers must pay very close attention to venue and choice of law provisions as failure to do so could land the aforementioned party in what is referred to as a Judicial “Hellhole”. Traditionally, Judicial Hellholes have been considered places where judges systematically apply laws and court procedures in an unfair and unbalanced manner, generally against defendants in civil lawsuits. In Judicial Hellholes, judges and/or juries are predisposed to favour the arguments of one side, typically that of the civil plaintiffs. The top five Judicial Hellholes of 2012/13 are:

- California
- West Virginia
- Madison County, Illinois
- New York City and Albany, New York
- Baltimore, Maryland

Fundamentally, for an Insurer, Judicial Hellholes create uncertainty regarding, the applicable legal standards, the probable outcomes and the position of the defendant(s). Generally, state and federal U.S. judiciary provide fair, equitable dispute resolution, but it is still vital that insurers remain aware of the importance of venue selection provisions within contracts so that they limit the chance of facing the prospect of dealing with a trial in what is considered to be an unpredictable jurisdiction.

‘Home-Court Advantage’ is a term is now widely recognised and understood in the legal world whereby the plaintiff, having their case heard in their local jurisdiction, is considered to have a significant advantage over the Out-of-State defendant.

Within the logic of Home-Court Advantage the Insured and Insurer are likely to be perceived as follows:

<table>
<thead>
<tr>
<th>Insured</th>
<th>Insurer</th>
</tr>
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<tbody>
<tr>
<td>Local reputation</td>
<td>Out-of-State corporation</td>
</tr>
<tr>
<td>Personal relationships</td>
<td>No local reputation</td>
</tr>
<tr>
<td>Local employer</td>
<td>No personal relationships</td>
</tr>
<tr>
<td>Involved in the community</td>
<td>No community ties</td>
</tr>
</tbody>
</table>
When drafting an Insurance contract the insurer should try to avoid provisions that require litigation in an insured’s “home court”. In situations where securing a venue provision outside of the insured’s “home court” is not possible the insurer should adjust their pricing accordingly to reflect the increased exposure. Failure to establish contractual provisions governing the substantive law applicable to the contract and the forum in which disputes will be resolved will only lead to trouble for the insurer. Essentially, the insurer should look to put itself in a position where certainty is maximised. In order to avoid uncertainty insurers should:

Evaluate relative merits of competing jurisdictions

Avoid racing your policyholder to the courthouse to secure your jurisdiction of choice

Avoid “Pre-litigation litigation” over the threshold issues of applicable law and proper venue

When a losing defendant’s behaviour is found to be especially harmful they can be punished further by having to pay punitive damages in addition to the actual damages awarded to the plaintiff. Punitive damages can be defined as those damages that are intended to reform or deter the defendant and others from engaging in conduct similar to that which formed the basis of the lawsuit. The purpose of punitive damages is not to provide the plaintiff with compensation; however the plaintiff will receive all or some portion of the award. Punitive damages awarded against an insured are not insurable in some states and are limited in others.

Part 3: The Big Texas Hail Seminar – What the Hail is Going On?

Wind and hail storms remain some of the most frequent and severe causes of property damage in the United States. Texas is the top state for most claims filed due to this peril. On the 13th June 2012, Dallas and Fort Worth suffered damages of approximately $900 million due to baseball to softball-sized hail causing significant damage to cars, homes and commercial property. The Mayfest storm in 1995 injured 109 individuals and to this day, it remains the most expensive hailstorm in the state, causing $1.6 billion in property damage.

Since 1955, Tarrant County spotters have recorded 800 hail events, more than any other county in Texas. In one case, a widespread weather event on May 24, 2011, Tarrant reported 32 different hail events in a little more than five hours, with some spotters describing hail as large as 3 1/2 inches.

Roof damage makes up a huge percentage of hail claims submitted. The severity of hail damage to residential and commercial roofs depends on several parameters including the age and type of roofing material, the roofing assembly, hail size, and roof slope amongst others.
Asphalt shingled roofs comprise a large percentage of insurance claims submitted for roof-related hail damage. The severity and extent of hail damage to asphalt shingled roofs is not as visually apparent as compared with some other common high-slope roofing materials, such as metal panels, wood shakes, and clay/concrete tiles.

Consequently, they have recently become the subject of ‘insurance scams’ where roofers and contractors attempt to inflate the extent and cost of the damage. A number of roofing companies and contractors and other individuals not licensed have been attempting to negotiate insurance settlements on behalf of the insured, which the Texas Department of Insurance strictly forbids.

ISO Form has limitations on coverage for roof surfacing (it excludes cosmetic damage). This has therefore helped but the wording is poor (refers to pitting etc...). As result there is now a cosmetic damage exclusion endorsement for roofs.

Mohr v American Automobile Ins. Co (2004) considers whether cosmetic hail damage to a roof was covered under a homeowner’s policy. “Pock-marks” alone not covered damage under the policy.

After our day of lectures Jason Reeves and the Zelle Hoffman team treated the Under 30’s to a trip to the Fort Worth Rodeo. This was a fantastic experience and a real highlight of our trip. Thank you Zelle Hoffman!
Conclusion

The Lloyd’s Under 30’s Study Trip could not occur without the hard work from many supporters and their companies. From management sign off to give each tourist the opportunity to experience these career building events to those company liaisons going that extra mile to host and organise informative lectures, workshops and field trips.

We are greatly thankful for those efforts and the true friendships made on this 2013 trip. We hope to continue the associations and build upon them on the next Lloyd’s Under 30’s Trip in 2015 to the East Coast of North America.

Robert Thomas (Price Forbes & Partners) & Laura Gadd (Guy Carpenter - Soon to be Marsh San Francisco)

2013 Study Tour Leaders and all the Lloyd’s Under 30’s Tourists.
Tour Leaders:
Laura Gadd
Robert Thomas

Travel Manager:
Lucy Samuelson, Black Tomato

Toronto

Chicago

Atlanta

Dallas