



Aggregation **B**usiness Interruption **C**ausation

NZILA

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| Specific advice should always be obtained before relying on any aspect of the content of this presentation or associated materials.

A

Aggregation Principles

1

Event and occurrence mean something that happens at a particular time, at a particular place and in a particular way. There must be: (a) a happening; (b) capable of being described as an event; (c) losses that are closely connected by time, location and motive; (d) causal link between the event and the losses; (e) lack of remoteness between the event and the losses

2

A cause, originating cause or source is a wider concept and encompasses the underlying reason or state of affairs for the loss.

3

Increasing use of series clauses, aggregating series of related losses.

B

Business Interruption Principles

- 1 BI is rarely standalone and forms a section in a general property cover
- 2 The primary trigger for BI is physical loss of or damage to the insured property in the period of insurance
- 3 There is often a requirement that there has been a successful claim for property damage under the policy
- 4 There are secondary (often sublimited) deemed damage extensions/triggers for, during the policy period: disease on or near premises; official closure by reason of an event on or near premises; or official closure due to disease on or near premises
- 5 The sum recoverable is loss in the indemnity period, which commonly runs beyond the duration of the policy itself

C

Causation Principles

- 1 Any loss must be proximately caused by an insured peril
- 2 The test may be altered by express wording
- 3 If the loss is concurrently caused by an insured peril and an uninsured peril, the insured peril prevails
- 4 If the loss is concurrently caused by an insured peril and an excluded peril, the exclusion takes priority
- 5 The burden of proving an insured peril is on the assured and the insurers must then prove a defence
- 6 If the policy is all risks, the assured need only prove the loss

Some Causation Conundrums



*Brian Leighton
(Garages) Ltd v
Allianz Insurance
Plc* [2023] EWCA
Civ 8



*Allianz Insurance
Plc v University
of Exeter* [2023]
EWHC 630 (TCC)

Concurrent Causes



***Brian Leighton
(Garages) Ltd v
Allianz Insurance
Plc [2023] EWCA
Civ 8***



***Allianz Insurance
Plc v University
of Exeter [2023]
EWHC 630 (TCC)***

Aggregation

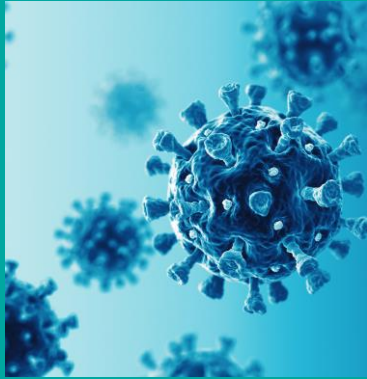


*Discovery Land
Company LLC v
AXIS Specialty
Europe SE [2023]
EWHC 779
(Comm)*



*Sky UK Ltd v
Riverstone
Managing
Agency Ltd
[2023] EWHC
1207 (Comm)*

Business Interruption Triggers



**LCA
Marrickville
Pty Ltd v
Swiss Re
International
SE [2022]
FCAFC 17**



**TKC London
Ltd v Allianz
Insurance
Ltd [2021]
EWHC 2710
(Comm)**

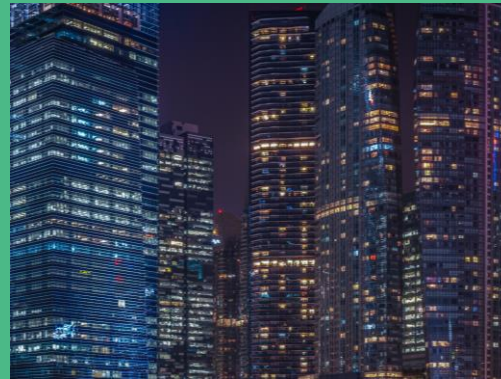


**Bellini (N/E)
Ltd v Brit
UW Ltd
[2023]
EWHC 1545
(Comm)**



**Various
Eateries
Trading Ltd
v Allianz
Insurance
Plc [2022]
EWHC 2549
(Comm)**

Business Interruption Causation



*Financial Conduct
Authority v Arch
Insurance and
Others [2021]
UKSC 1*

Business Interruption Causation



***Corbin & King
Ltd v AXA
Insurance UK
Plc [2022]
EWHC 409
(Comm)***



***London
International
Exhibition Centre
Plc v Royal & Sun
Alliance
Insurance Plc
[2023] EWHC 1481
(Comm)***



***Stonegate Pub
Company Ltd v MS
Amlin Corporate
Member Ltd [2022]
EWHC 2548 (Comm);
Various Eateries
Trading Ltd v Allianz
Insurance Plc [2022]
EWHC 2549 (Comm)***

Business Interruption Aggregation



Stonegate Pub Company Ltd v MS Amlin Corporate Member Ltd [2022] EWHC 2548 (Comm); *Various Eateries Trading Ltd v Allianz Insurance Plc* [2022] EWHC 2549 (Comm); *Greggs Plc v Zurich Insurance Plc* [2022] EWHC 2545 (Comm)



PizzaExpress Group Ltd v Liberty Mutual Insurance Europe SE [2023] EWHC 1269 (Comm)

Business Interruption Subrogation



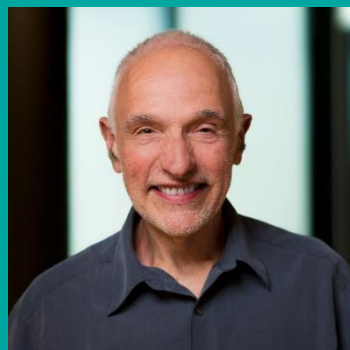
*LCA Marrickville Pty
Ltd v Swiss Re
International SE
[2022] FCAFC 17*



*Stonegate Pub
Company Ltd v MS
Amlin Corporate
Member Ltd [2022]
EWHC 2548 (Comm);
Greggs Plc v Zurich
Insurance Plc [2022]
EWHC 2545 (Comm)*



Questions



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