

MASINI, VICKERS & HADSELL, P.C.

THOMAS A. VICKERS

Since his admission to the bar in 1994, Tom has provided insurance law counsel related to property, general liability, cyber, commercial crime and employee dishonesty, workers' compensation, excess of loss and stop loss, employment practices liability, and several other types of commercial insurance. This includes issues related to insurance placement and broker standard of care. His other experience includes business transactions and litigation of business disputes, including professional negligence and construction litigation. After ten years of representing insurers, in March of 2004, Tom focused his insurance coverage practice on the representation of policyholders.

Mr. Vickers has represented clients at the trial and appellate levels throughout the United States and in the Caribbean under the London Arbitration Act. He is a member of the bar of the State of Illinois (1994), the United States Court of Appeals for the Fifth, Sixth and Seventh Circuits, and various United States District Courts, including in Illinois, Florida, Wisconsin, Nebraska, and Colorado. He also has been admitted *pro hac vice* before state and federal courts throughout the United States, including Florida, Nevada, Utah, Iowa, Nebraska, and New Jersey.

Mr. Vickers has served as a party appointed arbitrator and is a Certified Mediator.

REPRESENTATIVE MATTERS AFTER 2004

- Counsel for Westgate Resorts for various insurance and non-insurance loss-recovery matters since 2005. This includes property damage, builder's risk, and cyber liability claims, under policies issued by FM Global, St. Paul Fire & Marine Insurance Company, RSUI Group, and Lloyd's. The policyholder services rendered include pre-binding policy review, claim consultation and negotiation, ADR, and litigation. The claims involved losses arising from hurricanes, floods, sinkhole, and cyber loss. In addition, Tom has represented Westgate in claims against contractors, manufacturers, and service providers for construction defect, product recall, breach of contract, and professional negligence claims.
- Counsel for Mosaic Industries, a leading fertilizer manufacturer, for business interruption and property damage losses sustained following two separate events at its potash mine in Saskatchewan, Canada. Numerous insurers subscribed to Mosaic's property program, including Zurich, Arch, XL, AIG, Starr Tech, Liberty Mutual, and various Lloyd's and Bermuda markets. The claim totaled in excess of \$40 million and was favorably settled, pre-suit, following several days of mediation.

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- Counsel for U.S. Agri-Chem, a fertilizer manufacturer, to recover losses arising from Hurricane Charley. A dispute arose with Factory Mutual Insurance Company regarding the proper calculations of the business interruption loss. Suit was filed in federal court in Tampa. Following summary judgment ruling in favor of the insured client, the case was settled with the client being made whole for its losses.
- Counsel for Drake-Williams Steel, a structural steel fabricator, for a claim asserted under a general liability policy. The claim arose from property damage claimed by the contractor for the Pinnacle Bank. After extensive discovery the case was decided by the trial court on cross-motions for summary judgment. Appeal was taken and ultimately Tom argued the case before the Nebraska Supreme Court.
- Counsel for Drake-Williams Steel for various commercial disputes, including claims against up-stream contractors for unpaid invoices, delay claims, and general contract and risk management services.
- Counsel for Ashford Hospitality Trust for losses sustained during Superstorm Sandy. The involved insurers included Lloyd's, Zurich, and QBE. The disputed coverage issues included the proper application of the civil authority coverage and the deductible provision. The claim was favorably settled at pre-suit mediation.
- Counsel for Adelpia Communications for losses asserted under a claims-made environmental site protection policy issued by Quanta Specialty Lines Insurance Company. Quanta denied coverage asserting that a "claim" had not been asserted and if one was, it was not timely reported. Quanta also contested the quantum of the claimed damages. Suit was filed in federal court in Colorado, and following modest discovery, the court ruled in favor of Adelpia on these issues. Shortly thereafter the case was favorably settled.
- Counsel for Adelpia Communications and Quest Turnaround Advisors, Plan Administrator, in an adversary proceeding seeking defense costs incurred under a D&O liability policy. The claims were asserted by certain creditors in the bankruptcy proceeding. Summary judgment pending.
- Counsel for Manpower, Inc. for claims asserted against AIG following the collapse of a building's interior parking garage in Pars, France. AIG denied the bulk of the claim under the master policy and suit was filed. Following extensive discovery regarding underwriting and policy placement (U.S., Paris, and London) and motion practice before the district court, Tom argued the appeal before the 7th Circuit, which affirmed the favorable coverage rulings and reversed the unfavorable *Daubert* ruling. The case settled following remand to the district court.

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- Counsel for SEACOR Holdings, Inc. for losses sustained during Hurricane Katrina. Tom assisted client through the adjustment process, resolving all issues except the proper application of the deductible provision. Following favorable ruling at the district court, Tom argued the appeal before the 5th Circuit, which affirmed the district court's favorable ruling.
- Counsel for Greater Omaha Packing for loss claimed under property insurance policy issued by Liberty Mutual. The claim was denied based on the "voluntary parting" exclusion. Suit was filed against LMI and the third-parties responsible for the loss. The court ordered early mediation, and shortly after the mediation the case was settled making the client whole for its losses.
- Counsel for Adelphia Communications to recover insurance proceeds for losses sustained in Florida during Hurricane Wilma. The dispute centered on the service interruption provision and the proper calculation of the deductible for the property damage claim. After suit was filed and following minimal discovery, the case was settled favorably at mediation.
- Counsel for Winn-Dixie Supermarkets for losses sustained during Hurricanes Katrina, Rita and Wilma. Claimed losses totaled in excess of \$130 million, and the disputed issues included the proper application of deductible provisions, measure of business interruption loss, and coverage for mold-related damage. Following several meetings the disputed issues were resolved and the claim was favorably settled without resort to litigation.
- Counsel for Sammons Enterprises/Briggs U.K. for the loss of a stack-loader when it fell into Rotterdam Harbor, Netherlands. The claim was asserted under a worldwide transit policy issued by Lexington Insurance Company. Following claim denial, Tom was retained and after a series of letters and conference negotiations, the claim was favorably settled without the need to file suit.
- Counsel for Cypress Gardens Florida for losses sustained during Hurricanes Charley, Frances and Jeanne. The dispute focused on business interruption loss and proper valuation of property damage claims. Suit was filed in Polk County, Florida, naming the insurer and the broker, and was favorably settled following substantial discovery and motion practice.
- Counsel for Salt Lake City chemical manufacture for losses sustained during acid back-up incident. Disputed issues were whether the loss was caused by a covered risk, and the quantum of the business interruption, extra expense, and property damage losses. Suit was filed in Salt Lake City and the case was favorably settled following the deposition of the claim adjuster.
- Counsel for Titan Methanol, a chemical manufacturer, for advance loss of profits claim under a Lloyd's builders' risk policy following a fire at Titan's facility in Trinidad. The

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claim was tried to binding arbitration in Trinidad, under the London Arbitral Act with a three-member panel drawn from the United States, England and Trinidad.

- Counsel for coke and coke oven gas manufacturer to recover disputed property damage loss arising from soil heaving and damage to coke ovens. The claim, which the insurer denied based on a refractory exclusion, was settled on the eve of trial.
- Counsel for Southwest LTC for property damage and income loss as a result of Hurricane Harvey. There were substantial issues related to policy placement that involved discovery going back several years before the loss. The coverage issue was tried to an arbitration panel by summary judgment in favor of Tom's client.
- Counsel for Dupre Logistics against a claim brought by Zurich Insurance Company seeking to recover excess \$2.5 million in UM/UIM benefits paid to a Dupre employee. Following extensive discovery and motion practice, and arbitration panel granted summary judgment to Tom's client.

REPRESENTATIVE MATTERS PRE 2004

- Counsel for insurance company in a declaratory judgment action brought by a co-insurer providing general liability insurance to the same policyholder. The trial court ruled in favor of Tom's client finding that the other insurer also owed a duty to defend the policyholder against the underlying claims. Tom argued the appeal before the Illinois Appellate Court, which affirmed the trial court's favorable ruling.
- Counsel for Detroit Transportation Corporation (a public corporation formed by the City of Detroit, Michigan) and Hartford Fire Insurance Company (as subrogee) in an action against various entities for damage that occurred to the "People Mover" elevated public rail system during the implosion of an adjacent building. The trial court granted summary judgment to Tom's clients on the contractual indemnity claims against the contractors, resulting in a \$5.2 million recovery for his clients.
- Counsel for property insurer in the coverage action that arose following the fire at the Meridian Office building in Philadelphia. At the time, this was the costliest high-rise fire in U. S. history. As part of the trial team, Tom was directly responsible for all aspects of the Loss of Rental Income claim brought by the building owner. The Rental Income claim was tried to binding arbitration resulting in a judgment favorable to client.
- Counsel for various first-party property insurers against over \$1 billion in claims by Alcoa arising from soil and groundwater contamination at numerous Alcoa production facilities located throughout the United States and in Puerto Rico. Tom had direct responsibility for

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all phases of discovery, motion practice and trial preparation for the facility located near Round Rock, Texas.

- Counsel for various first-party property insurers against over \$500 million in claims by PPG Industries arising from soil and groundwater contamination at various PPG production facilities located through the United States. Tom had direct responsibility for all phases of discovery and dispositive motion practice for the Lake Charles, Louisiana site including briefing and arguing the motions obtaining partial summary judgment for his clients.
- Counsel for various first-party property insurers against over \$100 million in claims by PECO Energy Company arising from soil and groundwater contamination at manufactured gas plant sites. Tom had direct responsibility for all aspects of the case for the ten first-party sites. Following extensive discovery a mediation took place which successfully resolved of all claims against his clients.
- Counsel for Hewitt Associates, human resources consultant, in its claim for property damage against telephone services provider arising from water intrusion that damaged client's telephone switchgear. The trial court denied the defendant's multiple motions for summary judgment, and the case was settled during trial.
- Counsel for the property insurer in a claim brought by Washoe County, Nevada Airport Authority for flood damage to a runway claiming in excess of \$30 million. After a series of mediations before retired Supreme Court justice, the case was favorably resolved the day before jury selection was to begin.
- Counsel for property insurer in a lawsuit brought by Heaven Hills Distillery for damages caused by a massive fire at its distillery in Bardstown, Kentucky. The trial court ruled in favor of Tom's client on the coverage issues, and the case was then tried to a jury on an estoppel theory based on issues related to policy placement. The favorable coverage ruling was affirmed on appeal.

PRESENTATIONS AND PUBLICATIONS

- *2005 Storm Recap – Business Interruption and Property Claims; Post-Katrina Lessons Learned* co-presented to risk Managers, chief financial officers and various underwriters at the AON Property Symposium, Boca Raton, Florida, February 7, 2006
- *Builder's Risk Insurance and Claim Management*, presented to risk managers, chief financial officers and others at the 11th Willis Annual Construction Risk Management Conference, San Antonio, Texas, June 7, 2005

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- *Delayed Start Up and Soft Costs Claims*, presented to risk managers, chief financial officers and others at the 10th Annual Willis Risk, Safety and Claims Management Conference, New Orleans, Louisiana, May 12, 2004.
- *Subrogation and Loss Recovery Investigation*, separately presented to property insurance claims adjusters at Zurich Insurance Company and Reliance Insurance Company.
- *Maximizing Insurance Recovery for Physical Damage and Time Element Losses Arising from Disasters and Sorting Out the Misapplication of the Loss of Market Exclusion*, co-author, September 2005.

EDUCATION

1994 – J.D., IIT Chicago-Kent College of Law

1985 – B.S. Business, Energy Management, Eastern Illinois University