



Passing judgement on the lawyers

Good results and the soft market mean legal disputes are decreasing for the first time in years. It seems this is reflecting well on insurance and reinsurance lawyers. By Verena Horne

Legal Survey Results 2008

REGULATORY

US

Locke Lord Bissell & Liddell

Colodny Fass Talenfeld Karlinsky & Abate

Lovells

Dewey & LeBoeuf

Bermuda

Conyers Dill & Pearman

Appleby Spurling

Locke Lord Bissell & Liddell

Europe

Barlow Lyde & Gilbert

DLA Piper

Eversheds

Ince & Co

Considering the oft-repeated stereotype that lawyers are not to be trusted, someone must be putting something funny into the food of **Reactions'** legal survey 2008 respondents. They appear to be very happy with their lawyers.

The **Reactions** legal survey asked more than a hundred people – mainly in-house counsel at insurers and reinsurers – to give their views on legal disputes and lawyers in the insurance and reinsurance markets over the past year. Replies came from all over the globe: Bermuda and the US, Asia and the Middle East, and Europe.

When it comes to the volume of litigation and arbitration insurance companies faced in the past few years, the survey revealed that there were elements pushing and pulling at firms.

While 19.7% of respondents said the volume of legal disputes had increased and 26.8% said they had decreased, a majority – 53.5% – said it had stayed the same. This is a big change from previous surveys, where respondents largely reported a rise in the number of legal disputes.

Key to tables

Winner

Highly commended

Commended

Do you:

Use one law firm only

5.30%

Pick and choose according
to the nature of the work
94.70%

One reason could be that the number of disputes left over from the 2005 and 2004 storms seasons is diminishing. But many respondents said they felt disputes had decreased because the string of positive results experienced by the industry had reduced the incentive to get involved in legal battles.

Some also pointed to the softening market conditions as having a calming effect. "The soft market has created an attitude of not wanting to disturb commercial relationships," said one respondent. "Most of the hard market disputes have been settled – at least the low-lying fruit – and margins and competition are not stiff enough yet to bring out the worst."

For some, however, legal disputes are still increasing. Many that reported increases said they were in run-off, but a few respondents mentioned the option backdating scandal and the subprime mortgage crisis as reasons litigations and arbitration had increased. Others complained about the disintegrating relationship between insurers and their reinsurers – something that has been mentioned again and again in **Reactions** legal surveys.

"Communication between cedants and reinsurers has been relegated to email and letter correspondence, and not enough over-the-phone dialogue," said one respondent.

One gripe that came out clearly in the survey is that people in the industry are unhappy with the arbitration processes in some jurisdictions. They say it is a long-winded and costly process.

Asia-Pacific

Lovells

Barlow Lyde & Gilbert

DLA Piper

Allen & Overy

Middle East/Africa

Eversheds

Clyde & Co

Denton Wilde Sapte

Latin America

Lovells

Allende & Brea

Basch & Rameh

LITIGATION/DISPUTE MANAGEMENT

US

Lovells

Locke Lord Bissell & Liddell

Nixon Peabody

Chadbourne & Parke

Bermuda

Appleby Spurling

Attridge-Sterling & Woloniecki

Conyers Dill & Pearman

Europe

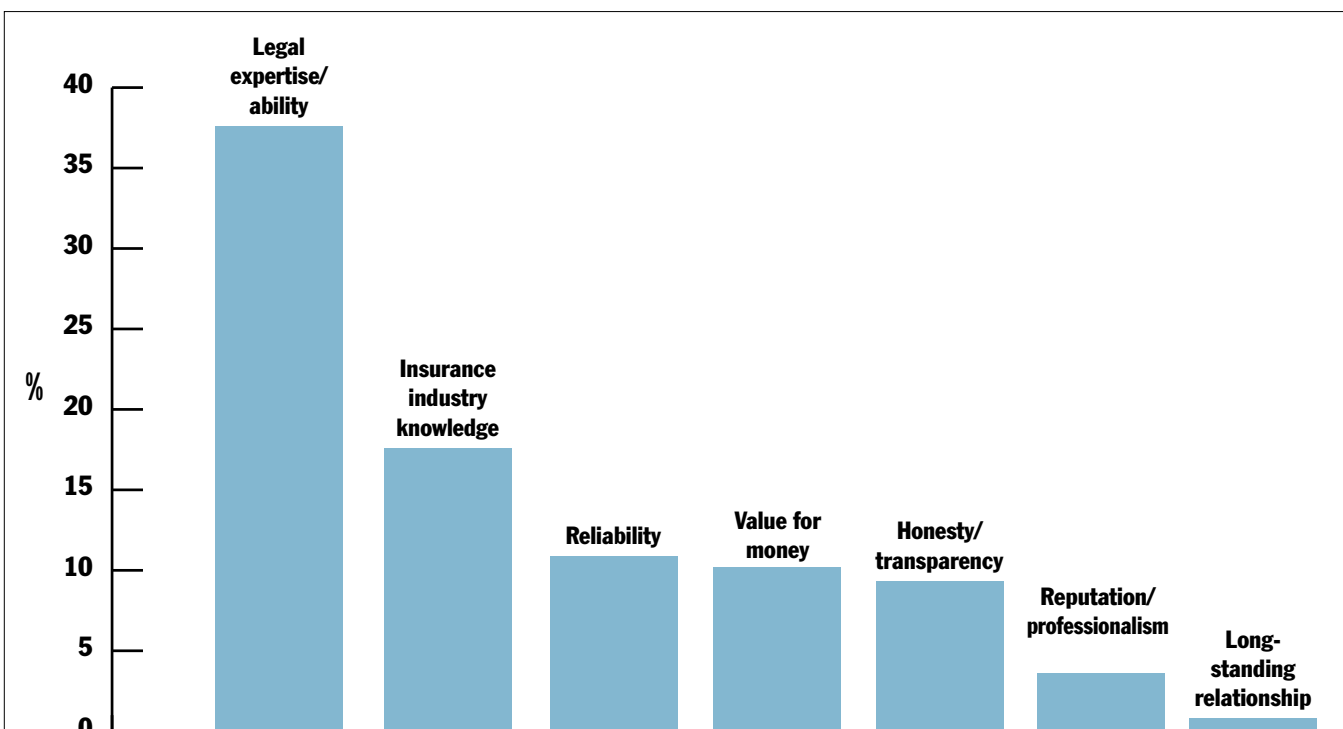
Barlow Lyde & Gilbert

Lovells

Nixon Peabody

Edwards Angell Palmer & Dodge UK

What qualities do you value most when looking for a law firm:



LEGAL SURVEY

Asia-Pacific

Lovells

Barlow Lyde & Gilbert

Chadbourn & Parke

Ince & Co

Middle East/Africa

Eversheds

Chadbourn & Parke

Kendal Freeman

Arab Law Bureau

Latin America

Clyde & Co

Allende & Brea

Lovells

Basch & Rameh

INSOLVENCY (INCLUDING RUN-OFFS)

US

Dewey & LeBoeuf

DLA Piper

Sidley Austin

Locke Lord Bissell & Liddell

Bermuda

Appleby Spurling

Conyers Dill & Pearman

Attridge-Sterling & Woloniecki

Europe

Lovells

Clifford Chance

Elbourne Mitchell

Edwards Angell Palmer & Dodge

Asia-Pacific

Clayton Utz (Australia)

Lovells

Mayer Brown JSM

DLA Piper

POLICY DRAFTING

US

Locke Lord Bissell & Liddell

DLA Piper

Lovells

Dewey & LeBoeuf

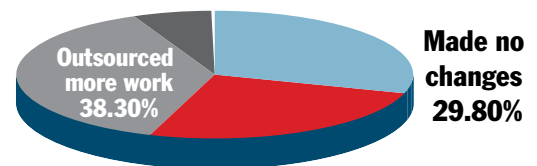
For some this meant an increase in litigation, because they no longer trust their disputes to arbitration.

One respondent said: "The US arbitration process has gotten extremely drawn out and wasteful. More companies are turning to using the federal courts to resolve issues, with more equitable results at the same or lower cost."

For others, a disillusion with arbitration is having the opposite effect. They are turning to alternative methods of disputes resolution – such as mediation – and getting broadly positive results. Perhaps this will be a trend that continues, if the arbitration process in the US and the UK is not reformed in some way.

Where the litigation workload at your firm has increased, have you:

Expanded in-house legal department 6.40%



A mixture of both 25.50%

When asked what types of political intervention respondents would welcome to help reduce litigation and arbitration at their companies, respondents' opinions differed. A large proportion of respondents, particularly in the US, said that sweeping tort law reform is needed to decrease litigation.

A few disagreed, however. One respondent believes that the answer is: "Less legislation. The more you legislate, the more you increase the likelihood of litigation."

Others laid the blame with unsympathetic judges – perhaps partly the fault of the bad reputation the insurance industry labours under. "Judges should represent the best the legal profession has to offer; not the activists they have become," said one put-out respondent.

Another clearly feels that the emphasis lies with the insurance or reinsurance companies themselves, as opposed to the legal system, answering: "Quality – not certain – contract wordings and better skilled claims staff who are empowered to make decisions."

The pick of the bunch

Of the survey respondents that reported an increase in legal disputes, a large proportion – 63.8% – said they either outsourced more work to law firms, or both outsourced more work and expanded their in-house legal department. It is hardly surprising that insurance companies are willing to outsource more work, considering the level of satisfaction respondents displayed with their law firms.

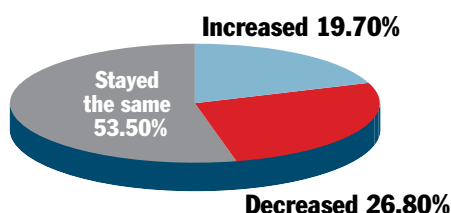
When asked what qualities they valued the most in a law firm, respondents made it clear that price was not top of the list. Value for money came fourth. Legal expertise/ability came out on top by quite a margin, with 37.6% of the vote, followed by insurance industry knowledge and reliability.

The firms that came out top in the survey are clearly well respected for their legal expertise and ability.

To judge the firms, we grouped questions into geographic regions and areas of expertise. The different areas of expertise are: regulatory; litigation/dispute management; insolvency (including run-offs); policy drafting; corporate contracts (for example, M&A, restructuring or capital raising); insurance-linked securities; reinsurance and an overall category.

In Europe, one company came out firmly on top. Barlow Lyde & Gilbert (BLG) won five categories. As well as the overall award for Europe, the law firm won the regulatory, litigation/dispute manage-

How has the volume of litigation/arbitration your company faces changed in recent years? Has it:



ment, policy drafting and reinsurance categories.

BLG's success in 2008's survey mirrors its success last year, when it won all the six European categories. The firm's expertise is well-established, particularly in the London market.

But BLG could not win all the categories this year. Lovells also did well, being voted the best European law firm for insolvency and corporate contracts, and being highly commended in the reinsurance and litigation categories, and in the overall category.

Other law firms that did well in the Europe region were Eversheds, which won the insurance-linked securities category, and Edwards Angell Palmer & Dodge.

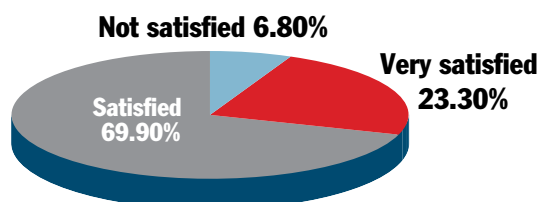
In the US, the results were more evenly split, with two companies winning three categories each. Locke Lord Bissell & Liddell came out on top in the regulatory, policy drafting and insurance-linked securities categories. Dewey & Leboeuf won the insolvency, corporate contracts and overall awards.

Both companies are new to the legal survey, having been formed through mergers. Locke Lord Bissell & Liddell was formed in October 2007, after Lord, Bissell & Brook, which won all the US categories in last year's **Reactions** survey, combined with Texas-based Locke Liddell & Sapp. Dewey & Leboeuf was formed when Dewey Ballantine got together with LeBoeuf, Lamb, Greene & MacRae.

Lovells also did well in the US, winning the litigation/dispute management award and being highly commended in the regulatory, policy drafting, corporate contracts and overall categories. It certainly beat its tally last year, when it failed to win any of the categories in that region. Edwards Angell Palmer & Dodge won the reinsurance category in the US.

Hopefully, the **Reactions** Legal Survey will give companies in the US an idea of who is best to turn to when the effects of the subprime mortgage crisis and options back-dating scandal start to be felt.

How satisfied are you with the billing practices of the law firms you use?



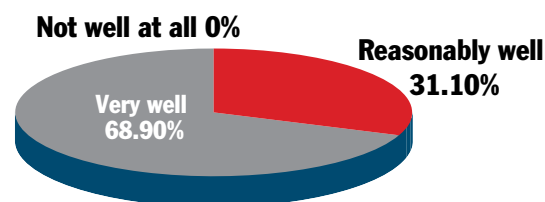
The Bermuda poll was a two-horse race. Voters were split between Bermuda stalwarts Conyers Dill & Pearman and Appleby Spurling. Conyers came out on top in the final count, not only winning the overall award, but also bagging the awards for regulatory, policy drafting and insurance-linked securities. The firm was also highly commended in the insolvency, corporate contracts and reinsurance categories.

Appleby did do very well though – beating Conyers to the top prize in the litigation, insolvency, corporate contracts and reinsurance categories, and winning a highly commended award in the regulatory category.

Reactions' legal survey also recognises those firms that have excelled globally. After all, for insurers and reinsurers investing overseas in unfamiliar territory or emerging markets, a good lawyer is indispensable.

Clayton Utz (Australia) is the winner of the overall award for Asia-Pacific, Clyde & Co came out top overall in the Middle East/Africa region, while Alende & Brea is awarded the overall award for Latin America.

How well do the law firms you use understand your business?



Bermuda

Conyers Dill & Pearman

Locke Lord Bissell & Liddell

Appleby Spurling

Europe

Barlow Lyde & Gilbert

Edwards Angell Palmer Dodge

Lovells

Clyde & Co

Asia-Pacific

Allens Arthur Robinson

Clayton Utz (Australia)

Ince & Co

Barlow Lyde & Gilbert

CORPORATE CONTRACTS (FOR EXAMPLE, M&A/RESTRUCTURING/CAPITAL RAISING)

US

Dewey & LeBoeuf

Chadbourne & Parke

Lovells

Locke Lord Bissell & Liddell

Bermuda

Appleby Spurling

Conyers Dill & Pearman

Locke Lord Bissell & Liddell

Europe

Lovells

William Fry

DLA Piper

Barlow Lyde & Gilbert

Asia-Pacific

Lovells

Mallesons Stephen Jacques

Linklaters

INSURANCE-LINKED SECURITIES

US

Locke Lord Bissell & Liddell

Sidley Austin

Dewey & LeBoeuf

LEGAL SURVEY

Bermuda

Conyers Dill & Pearman

Locke Lord Bissell & Liddell

Mello Jones & Martin

Europe

Eversheds

Edwards Angell Palmer & Dodge

Locke Lord Bissell & Liddell

REINSURANCE

US

Edwards Angell Palmer & Dodge

Dewey & LeBoeuf

Locke Lord Bissell & Liddell

Nixon Peabody

Sidley Austin

Bermuda

Appleby Spurling

Attridge-Sterling & Woloniecki

Conyers Dill & Pearman

Locke Lord Bissell & Liddell

Lovells

Europe

Barlow, Lyde & Gilbert

Edwards Angell Palmer Dodge

Lovells

Chadbourne & Parke

Ince & Co

Asia-Pacific

Allens Arthur Robinson

Barlow Lyde & Gilbert

Clayton Utz (Australia)

OVERALL

US

Dewey & LeBoeuf

Locke Lord Bissell & Liddell

Lovells

DLA Piper

Edwards Angell Palmer & Dodge

Bermuda

Conyers Dill & Pearman

Appleby Spurling

Attridge-Sterling & Woloniecki

Locke Lord Bissell & Liddell

Lovells

Europe

Barlow Lyde & Gilbert

Edwards Angell Palmer & Dodge

Lovells

Clyde & Co

Ince & Co

Asia-Pacific

Clayton Utz (Australia)

Barlow Lyde & Gilbert

Ince & Co

Lovells

Malleons

Middle East/Africa

Clyde & Co

Eversheds

Levitan, Sharon & Co (Israel)

Arab Law Bureau

Edwards Angell Palmer & Dodge

Latin America

Allende & Brea

Clyde & Co

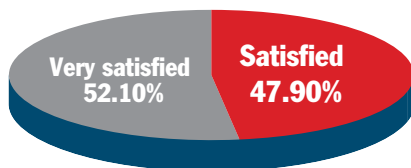
Ustariz & Asociados

Basch & Rameh

Lovells

How satisfied are you with the overall service you receive from your law firm?

Not satisfied 0%



Not all good news

Despite the broadly positive review lawyers get in the survey, it is not all praise. One continuing gripe for respondents appears to be law firms' billing practices. Many of the respondents asked for a clearer explanation of billing practices, and for fees to correspond to the level of experience and expertise offered by the individual lawyer.

One said: "Billing practices are often not transparent and hourly rates as well as billed hours are occasionally exorbitant; especially where internal lawyer team conferences are involved; London lawyers are especially expensive."

In general, however, it would be fair to say that lawyers can be pleased with the response to this year's poll. They should enjoy it while it lasts – increasing competition and the effects of the subprime mortgage crisis could change that positive attitude in a flash. ●

Where could law firms improve their services?

“Meet with their clients regularly and determine what value-added services are important to them. Every company is unique in that regard.”