

**Liability Claims Investigation
Blood, Fire, Rubber and Smoke
Thursday 30 November 2006**

Tom Battell, Adjusting Solutions LLP
David Martin, Adjusting Solutions LLP
John Turner, QuestGates Ltd
Graham Terrell, Marsh Ltd

Introduction and Content

Presentations

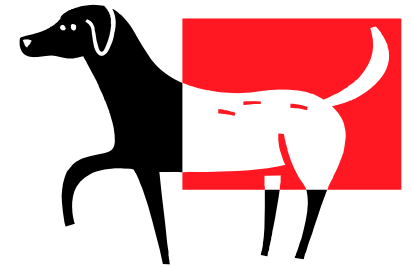
- Tom Battell - General
- David Martin - Products
- John Turner - EL/Injury
- Graham Terrell - Risk Management

Workshops

- Group Case Studies
- Case Study Feedback
- Questions

Aims

1. Widen understanding of investigation and strategy on liability claims
2. Reduce risk of the “tail wagging the dog”
3. Improve performance in delivering the policy promise



MAKING IT REAL

Feel free to participate during the presentations

Ask questions – someone in the room will have a view

General Claims

- General, Public and Products
- Overview of good liability investigation practice
- Solutions – Be Enterprising
- Subrogation
- Case study – Product Liability
- Questions



Investigation Overview

First Steps - Desktop (before visiting site)

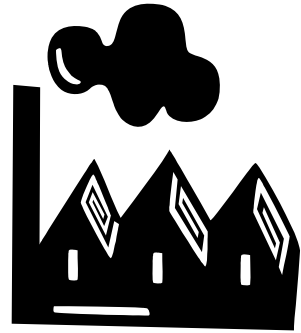
- Insured background/business/people
- Previous losses/incidents
- Market position/competitors/customers
- Web/Financial/Locus search
- PR Issues
- Legal Research
- Coverage
- Claimant(s) and representatives



Investigation Overview

First Steps - Site Visit

- Safety
- Create Good Relations
- Evidence/Records/Circumstances
- Experts/Statutory Bodies
- Containment and Mitigation
- Parties/Relationships/Contracts
- Subrogation/Recovery Aspects



Parties and Agendas



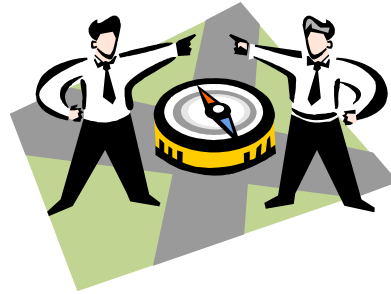
Lawyers



Assessors



Claimant (s)



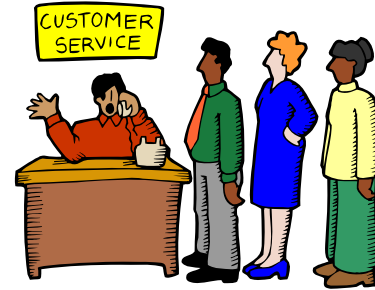
Adjusters



Insured



Broker



Customers



Suppliers



Statutory Bodies

Maintaining Control – Claims

Quality Case Management

1. Manage Expectations
2. Salient and Tactful Enquiries
3. Appropriate Communication to All
4. Early Notice of Uninsured Aspects
5. Prompt Actions and Updates



Maintaining Control – Claims

Quality Case Management – cont.

6. See the Whole Picture
7. Clear Strategy and Direction
8. Cohesive Assessment and Reporting
9. Continuous Financial Appraisal
10. Commitment and Impetus to Closure



Maintaining Control - Underwriting

1. Know your Insured and Market
2. Check Financial Status
3. Review Contracts and Terms
4. Future Developments
5. Risk Improvement
6. Continuity Planning
7. Lessons Learnt?
8. Will it Happen Again?



Enterprising Solutions

- Timing and Early Settlements
- Win - Win agreements
- Joint/Multi-Party
- Cut Through Settlements
- Reputational Risk Appeasement
- Commercial Settlements
- Apologies, Grovelling and all others forms of Repentance



Subrogation

- Often forgotten or left late
- Preserve evidence, take statements
- Give early notice and reasonable documentation
- Offer inspection facilities
- Enforce contract terms
- Chase, Chase and Chase again !!!



Products Investigation

Case Study

- Leading edge print cartridge
- Ink supplied to spec by TP supplier
- Reformulation by TP causes blockages
- All direct customer claims resolved – except one using standard terms
- Negotiated agreement
- Low value low volume account
- Claimant's customers high profile and badly affected

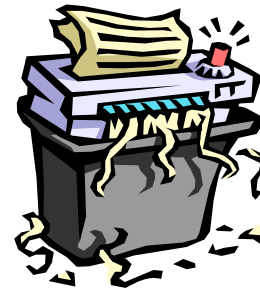
The Claim

Claimant position

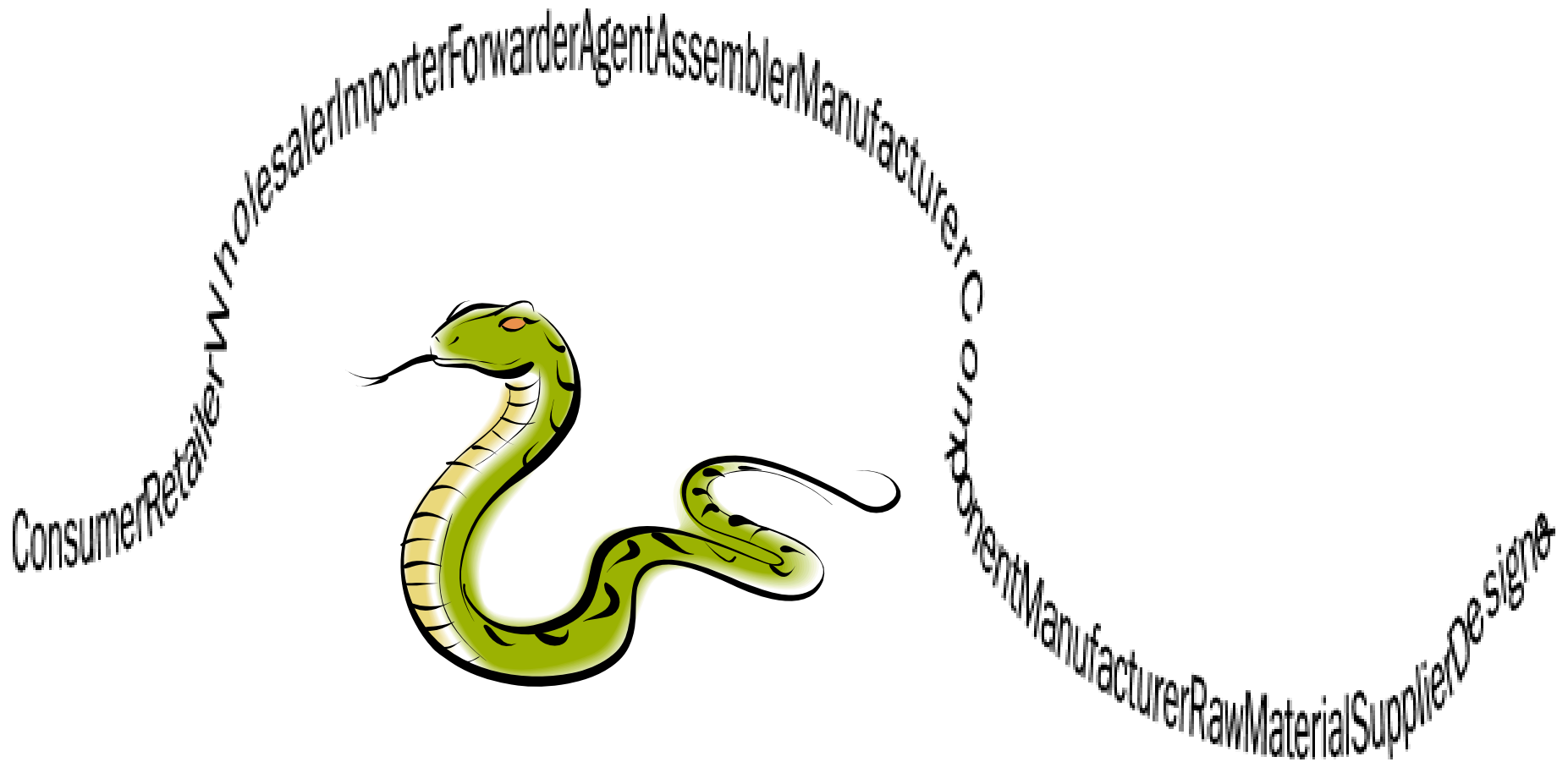
- Business badly affected
- Replacement printheads
- Additional expenses (engineers etc)
- Loss of direct sales
 - hardware
 - software
- Loss of indirect sales
 - hardware
 - software

Words, Words and More Words!

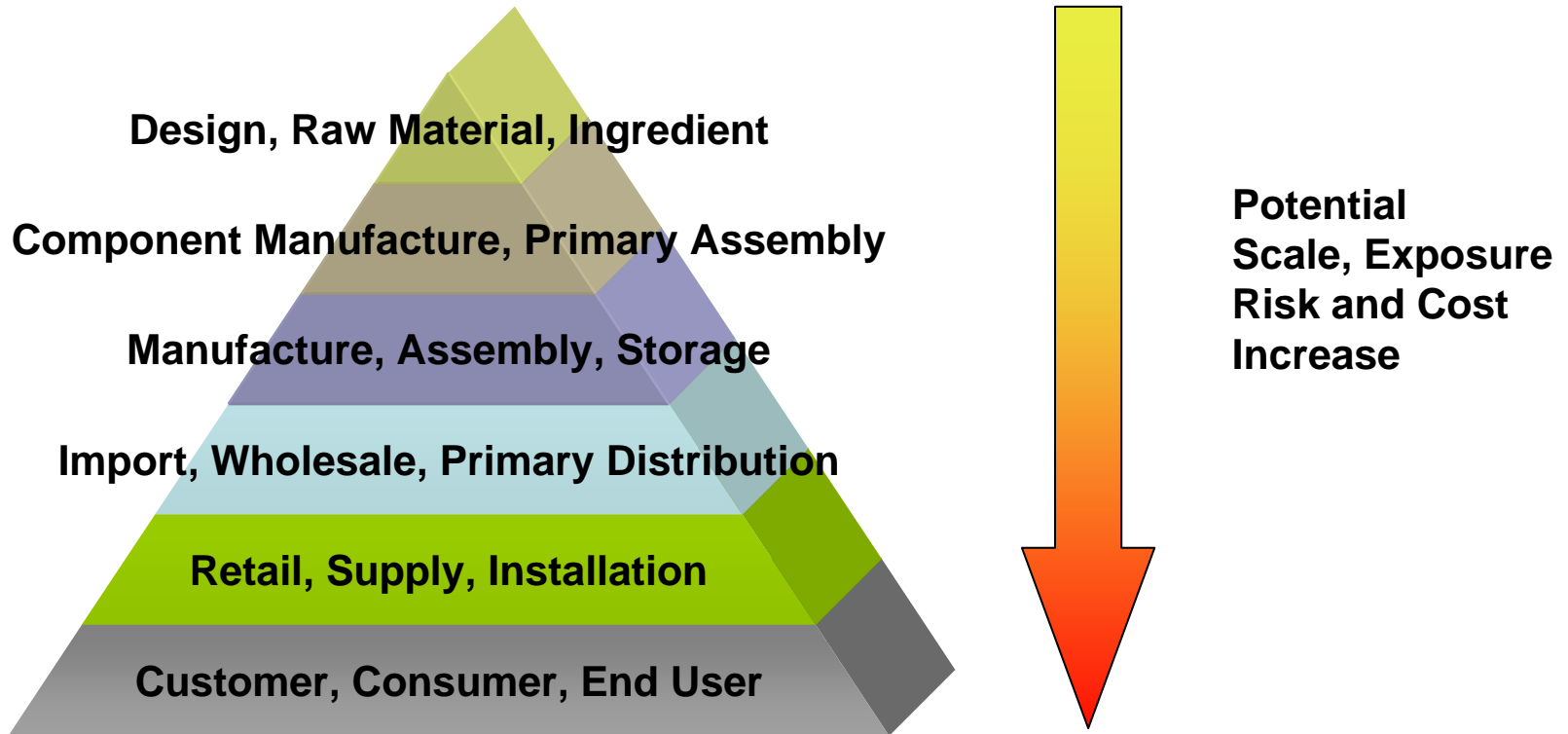
- Sales & Purchase Conditions
- Negotiated Contracts
- Specifications
- Installation & Usage Instructions
- Statutory Requirements
- Insurance Coverage
- Legal Compliance
- Statements



The Contractual Snake



The Loss Pyramid



Liable – or just bluffing

- Statute
- Tort
- Contract
- Territory
- Custom
- Appointment of team playing lawyer

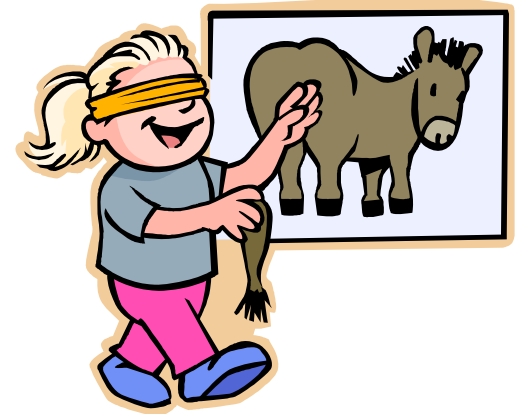


Policy Application – or not

- Product supplied (not service given)
- Damage or not !
- Pure Financial Loss
- Claims made or losses occurring
- Retroactive dates
- Own product/component exclusion
- “Rip ‘n Tear”
- Series claims and deductibles

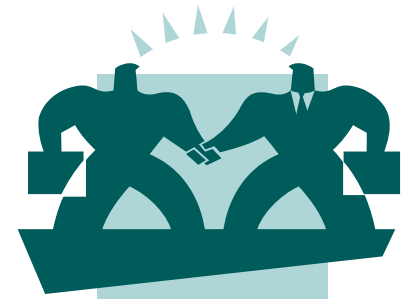
What's it worth?

- How far down the chain
- Legal limitations
- Recall considerations
- Quantities
- Production and loss of profit calculations
- Structured reserving with continuous review
- Savings
- Mitigation effects



Resolution

- Managing expectations of claimants and insured
- Insured aspects
- Uninsured aspects
- Creative solutions which restrict future losses, develop the product and maintain business



Questions?



Questions?

Contacts

TOM BATTELL FCII, FCILA, MBEEng., FIFAA, MAE

Direct Dial +44 (0) 20 7743 8391

tom.battell@adjustingsolutions.com

Tom Battell has 30 years experience in the insurance industry in underwriting, loss adjusting, forensic services and consultancy. He was formerly director of insurance at PwC, and now specialises in professional indemnity disputes, product liability design and manufacturing errors for industry and financial loss investigations.



DAVID MARTIN FCII, FCILA, FIFAA

Direct Dial +44 (0) 20 7743 8392

david.martin@adjustingsolutions.com

David Martin has spent 30 years in the loss adjusting profession. He was formerly director - corporate services for Cunningham Lindsey UK, London, and now specialises in major corporate loss and business interruption, product recall, agri-business and food industry claims.



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