

Joint Meeting of Civil Liability and Dispute Resolution Working Parties at Rio de Janeiro World Congress. October 2022

On October 13, 2018, Civil Liability and Dispute Resolution Working Parties held a joint meeting at Rio de Janeiro World Congress, jointly chaired by Osvaldo Contreras -Strauch and Chris Rodd .

The works prepared and the speakers who presented, were the following:

- 1) Prof. Osvaldo Contreras-Strauch, from Chile, Chairman of Civil Liability WP, prepared a paper and spoke on “Liability of Insurance Brokers”. He analyzed the nature of role and duties of insurance brokers with respect, to both, insured and insurers. He addressed the issues of the regulation of their activities and liability arising from wrongdoings, especially lack of adequate advice in respect of the coverage of policies and insured duties, to the insurer.
- 2) The second presentation , by Chris Rodd ,(Chair of the Dispute Resolution Working Party and an AIDA Vice President) was about “Mediation – An essential part of common law litigation in Australia – A Victorian perspective”, The presentation addressed the integral role of mediation in the litigation process in his home state ,Victoria (Australia)and the heavy reliance placed by the courts on mediation as a mechanism to resolve cases that would otherwise proceed to costly and protracted trials. The presentation addressed both the strengths and some of the weaknesses experienced with the mediation process.
- 3) The third presentation was by Sergio Barroso Mello, a Vice President of AIDA World, (Brazil) and was about “Civil Liability and its insurance -Controversial Issues”. In this work, the speaker analyzed issues such as Civil Liability arising from Undue Labor Practices, Directors And Officers Liability (D&O), Professional Liability, Environmental Pollution Liability, Cyber Risks, and Claims for Lost of profits, Lost of Chances and “Crisis Management In claims involving civil liability”, from a Brazilian perspective .
- 4) The following presentation by Dr. Ilan Goldberg, again from Brazilian Chapter of AIDA, addressed the issue of ‘Fraud in the D&O Insurance with special attention to the anticipation of the defence costs. - A Brazilian law overview’. In this paper, Dr Goldberg illustrated the issues he wished to address with case law examples of willful misconduct of insured, prior and during the contract; aggravation of risks and losses caused intentionally in this type of insurance emphasizing, the exclusion of cover for willful misconduct , under Brazilian law and the need for final adjudication.
- 5) The final paper was presented by Gabriel Vivas, President of Latin America Civil Liability WP and Coordinator of AIDA World Group, with the theme – “Arbitration Clauses in insurance contracts (civil liability) - A comparative view ”. In the paper ,Gabriel analyzed, by way of a comparative view , the different approaches in Argentine, Brazil, Chile, Colombia, Peru and Costa Rica, with specific emphasis on the legal admissibility and enforceability of arbitration and mediation in liability insurance disputes.

Copies of each of the presenters papers and Power Point presentations can be viewed below .