

Southampton Law School Special Seminar
Insurance Causation after the
Financial Conduct Authority Test Case
Friday 25 September @ 1pm – 2.30pm

Speakers

Professor James Davey '*Post Hoc, Ergo Propter Hoc* and the Causation/Indemnification Crossover'

Dr Meixian Song 'Revisiting Concurrent Causation and Principles in English Insurance Law: a Legal Fiction?'

Dr Liang Zhao 'Insurer's liability under concurrent causation--English law and Chinese law compared'

The FCA Test Case is the first of its kind. The litigation is based on a series of hypothetical scenarios to tease out the limits of business interruption insurance policies covering the consequences of outbreaks of disease and denial of access to premises. The action was brought against seven representative insurers, and argument was based on a series of policies used in the market for businesses such as holiday homes, restaurants and churches.

One fundamental issue revolves around the application of the proximate cause doctrine to the current situation. Many financial losses could be attributed to events insured under the policy (eg an outbreak within 25 miles) AND to events outside the promise to indemnify (eg the global pandemic). The FCA argues that insureds are properly indemnified if the losses are covered as if no wider pandemic had occurred. Insurers dispute this. This issue of 'concurrent causation' has only been subject to limited consideration by the UK courts, and the test case will provide a new source of authority.

Judgment by Butcher J and Flaux LJ (both insurance specialists) was handed down on 15 September 2020. This workshop reflects on that decision in light of modern insurance scholarship.

Dr Meixian Song is author of *Causation in Insurance Contract Law* (2014). Dr Liang Zhao is an expert on Chinese and English commercial law. Professor James Davey is co-author of *Miller's Marine War Risks* and Deputy President of the British Insurance Law Association.

This seminar will be presented via Zoom
click here to book your place <https://bit.ly/3mmMc1Z>