

Insurance and Indemnification

The University of Texas School of Law
Continuing Legal Education
Bernard O. Dow Leasing Institute
November 9, 2018

WINSTEAD

WHAT IS AN INDEMNITY PROVISION?

- Contractual agreement of one party to protect another party from claims or losses for which the other party would otherwise be responsible
- Shifts risk of financial responsibility
- Relates to third-party claims, not claims brought by one contract party against the other

WHY AN INDEMNITY?

- One party may be in a better position to **control** the risk or **finance** the risk
- Customary in industry
- One party may be maintaining the insurance
- Bargaining power

TYPES OF INDEMNITY PROVISIONS

- Limited Form: Only to the extent of indemnitor's own negligence or fault
- Intermediate Form: Limited Form plus to the extent of indemnitee's partial or concurrent negligence (usually excludes indemnitee's sole negligence)
- Broad Form: Limited Form, plus Intermediate Form, plus covers indemnitee's sole negligence

WHEN INSURANCE AND INDEMNITIES GO WRONG

winstead.com

WINSTEAD

Case Study: Deepwater Horizon



In re Deepwater Horizon, 470 S.W.3d 452 (Tex. 2015)

winstead.com

WINSTEAD

Find the full text of this and thousands of other resources from leading experts in dozens of legal practice areas in the [UT Law CLE eLibrary \(utcle.org/elibrary\)](https://utcle.org/elibrary)

Title search: Insurance and Indemnification

Also available as part of the eCourse

[Insurance and Indemnification Provisions in Leases](#)

First appeared as part of the conference materials for the
2018 Bernard O. Dow Leasing Institute session

"Insurance and Indemnification"