

# 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

[Hooked on CLE: June 2019](#)

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