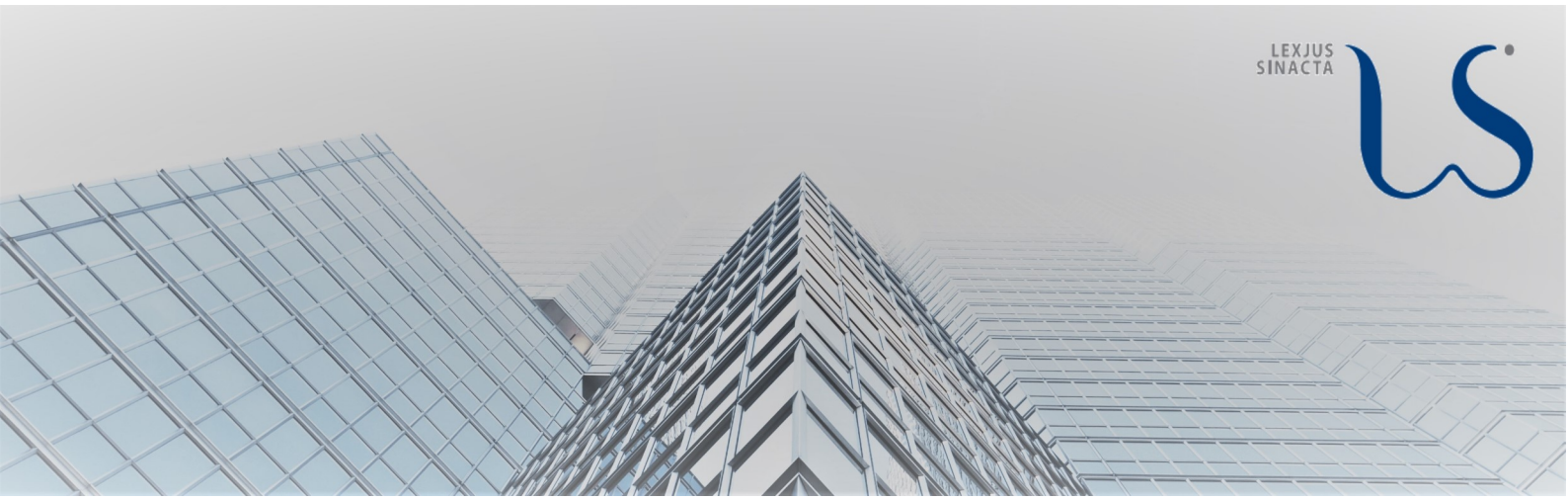

Insurance Law

Claims made under the examination of the Italian Supreme Court

(Italian Supreme Court, Section III, 9/1/2018 No. 1465, Judge Rossetti)

Anna Masutti e Diego Favero

Less than two years after the well-known decision No. 9140/2016, the United Chambers (*Sezioni Unite*) of the Italian Supreme Court were called again to rule on the claims made clauses, whose validity and merit were called into question by the interlocutory ordinance.

The claim originated from a typical case of product liability. The arm of a crane inside a construction site broke away and collapsed onto a nearby warehouse, damaging the goods contained therein. The resulting judgment involved the crane manufacturer, who called into question its civil liability insurer with whom they had stipulated two consecutive insurance contracts, operating under the claims made regime. The Court of first instance declared the clause void and upheld the guarantee claimed against the insurer. On the contrary, the Court of Appeal of Venice, while upholding the appeal brought by the insurer, declared the clause valid and not vexatious.

The insured appealed before the Third Section of the Supreme Court, which with the order No. 1465/2018 asked for the intervention of the United Sections in order to rule definitively on the validity of the claims made clauses.

The doubts of validity, raised by the Section, of this kind of clauses in the Italian legal system are various and emphasise the paradoxical consequences of the application of this condition for the insured.

The decision of the United Sections is expected to be highly anticipated, being called to make the point – hopefully definitive – on an issue of enormous economic and social importance.

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