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**Winning with Experts After the Storm: Adjusters, Attorneys, and Experts Discuss the Best Strategies for Use of Experts**

**Introduction**

Experts can make or break the successful claim adjustment or legal defense of a claim. Attendees to this session will interact with the panel to overcome claim adjuster challenges such as reports that confuse or muddle the issues, hyper-technical language, or experts who overlook key issues. Expert meteorologist and engineer will discuss challenges they face: unclear direction, aggressive cross examinations, and fear of "telling it like it is." Together with the audience, this panel will identify key difficulties and solutions to help all parties achieve speedy, efficient, accurate and successful outcomes.

**I. Reducing Inefficiencies in the Use of Experts**

Claim adjusters and attorneys necessarily rely on experts who use learned scientific analysis to determine such things as damage causation, duration, or timing of loss. But sometimes there is a "gap" between the needs and expectations of the claim professional, and the stated opinion of the expert.

Claim professionals must engage with experts outside of the claim scenario to learn what experts know and how they know it, what obstacles and challenges experts face when assessing a component of a claim and writing a compelling report, and what limitations experts have that may impact the claim outcome.

Equally, experts must learn from claim professionals and attorneys to understand the impact of key policy language, as well as significant statutes and case law in the relevant jurisdiction. Knowing, for example, whether a state employs the "concurrent causation" or "efficient proximate cause" doctrine – and what is meant by each – allows the expert to tailor his or her opinion to be helpful on common claim issues such as combined causes of loss. The case of Hicks v. American Integrity Ins. Co., 241 So. 3d 925 (Fla. 5th DCA 2018) provides one example of case law impact on the scientific opinion of experts who assess water damage claims. In Hicks, the insurance policy contained common language excluding long-term water damage of 14 or more days in duration. The Hicks court held that this exclusionary language did not exclude any damage occurring during the first 14 days. Whereas prior to Hicks, experts

assessing water damage claims may only have looked at the question of duration of the damage being more than or less than 14 days; after Hicks, experts may also be charged with determining whether and to what extent damage occurred during the first 14 days.

Similarly, the case of Sebo v. American Home Assurance Co., 208 So. 3d 694 (Fla. 2016), addressed the two competing theories of damage resulting from combined causes of loss: the efficient proximate cause theory, and the concurrent causation theory. Under the first theory, used in a majority of states, a cause of loss covered by the insurance policy must be the efficient proximate cause; otherwise, the loss is not covered. Under concurrent causation theory, if one of the combined causes of loss is covered by the policy, the entire loss is covered. Florida's Sebo case held that concurrent causation is the law in Florida, unless the policy contains anti-concurrent causation language. So, experts must understand common policy language constructs, and experts must know whether a loss caused by more than one perils is defined by the theory of concurrent causation or efficient proximate cause.

For optimal use of experts in claim assessments and in litigation, it is important for all parties – claim professionals, expert consultants, and attorneys – to understand the needs, challenges, and obstacles faced by each, and learn the best ways to overcome these.