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## **Insurance Expert Witness**

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### **EXPERT'S CORNER**

Expert Witnesses for claims adjusting cases

#### **What is an expert witness?**

According to Federal Rule of Evidence 702 an Expert Witness is a witness who, due to their knowledge, skill, experience, training, or education, may give testimony in the form of an opinion. The purpose of allowing expert testimony is to assist the trier of fact to understand the evidence or to determine a fact in issue.

As a claims adjuster you will have occasion to handle cases that require the use of expert witnesses. You can assist the attorney handling the case if you are prepared to recommend claims experts with a proven track record and the appropriate experience and credentials.

For the adjuster to assist in selection of an appropriate expert witness, they need to know the key issues in the case as well as the applicable standards of care as they apply to the case and further, they need to know if there is any conflict with the applicable industry standards.

#### Qualifying the expert

You may be very helpful to the attorney handling the case if you are able to interview potential experts, as you may be able to explore their background and history in the profession and as a witness for your specific case. It is best to spend at least an hour with a potential expert to be thorough in your evaluation. In addition, I cannot overemphasize this, you should make every attempt to determine early on in the case that an expert will be required and locate the appropriate expert as soon as possible to avoid a last minute scramble to locate an expert just because the other side has decided to use an expert. Also, an expert can assist in preparing the case.

#### Do you already know someone who may qualify?

It is best to look for an expert witness who has had some prior experience in deposition testimony. Not every potential expert witness is willing to submit to the rigors of giving a deposition. Nothing can quite prepare you for an eight-hour deposition as an expert where the other side is attempting to discredit your testimony. Some experts provide services as consulting experts only and do not provide deposition testimony. Those who do provide deposition testimony should always be looking ahead to providing trial testimony consistent with their depositions.

Many experts are no longer full-time practitioners in their fields. However, it is possible to find an appropriate expert from your peer group. You may find a qualified expert at another insurance company or TPA. It is best if your expert has provided testimony for both plaintiff and defense cases so as to avoid a charge of bias that you may find in using an expert who is currently employed by an insurance company.

#### Specifics about qualifications.

While it is not necessary for an expert in the claims adjusting area to have any specific designations or

certifications, it can be an asset to have a current adjusters license, an associate in claims degree or other professional designations that indicate additional training in the field. In addition, it is always good for your expert to have the same or better formal designations or certifications as the opposing expert.

If the case you are handling involves coverage issues, it may help you to look for someone with a CPCU designation or some other designation outside the claims adjusting field.

If your expert has published materials in the field and specifically on point for the case at hand it can be a plus. However, it is important to note the opposite can be true if your expert has written material that is not consistent with his opinion in your case.

As an adjuster, you may be involved in a case where there are several issues that require expert testimony. Not all of the issues may be directly associated with claims adjusting such as the standards for an insured or other party in dealing with a claims adjuster or third party administrator (TPA). These cases may require an expert with a risk management or insurance broker background for that specific issue. It is generally preferable to limit the scope of expert testimony and to use multiple experts with each one being focused on specific issues.

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