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EXPERT TESTIMONY AND OTHER WORK WITHIN PRECEEDNG TEN YEARS

A Supplement to Appendix B.1

1997. *Bank One Texas, N.A. v Bank One Texas, N.A. v. Highlands Insurance Company, Highlands Underwriters Insurance Company, Brown-Carpenter Curtainwall Systems, Inc., Brown Carpenter & Company, Dee Brown Masonry, Inc., and Carpenter Carruth & Hover*, 113th District Trial Court, Superior Court, Harris County, Texas (1997) (Trial Docket 91-23339).

Fact witness adopted as an expert to give hybrid fact/expert testimony on best practices in handling performance bond claims. No deposition testimony. Did not prepare a report. Was not formally “retained” as an expert. Was “qualified” as an expert by the judge on an issue involving surety offsets on 23 bonded projects and obligations to a dual obligee lender. \$23MM dispute.

2014. *Xcel Masonry, Inc. v. K & B Quality Masonry, Inc., and Insurance Company of the West*, Birmingham, AL 2014.

Fact witness for ICW adopted as an expert. Hybrid fact/expert testimony. No deposition testimony. Did not prepare a report. Was not formally “retained” as an expert. Was not “qualified” as an expert by the judge. Issue was distinction between common law and statutory bond and the resulting effect upon Alabama’s Prompt Payment Statute. Educated the judge from the witness stand in response to his direct questions. Judge Robert Vance.

Trial Testimony

2009. For plaintiff general contractor. *Global Construction, Inc. v. United States of America*, Civilian Board of Contract Appeals, Atlanta, GA March 27, 2009.

Asked to testify directly by plaintiff's attorney. Hybrid fact/expert testimony. No deposition testimony. Did not prepare a report. Was not formally "retained" as an expert. Was not "qualified" as an expert by the judge. Issue was whether contractor was properly defaulted by the Veterans Administration for poor performance and breach of contract.

Deposition Testimony

2015. *Stellar J. Corp. v. Argonaut Insurance Company, et al.*
Tacoma, WA 2014-2015.

Formally retained by plaintiff general contractor. Gave deposition testimony and prepared an expert report in contemplation of mediation. A performance bond styled "supply bond".

OTHER EXPERIENCE:

- **Surety, Fidelity & Insurance Expert** April 2013 - Present *Expert Witness*
Part-time. Founder. Provide bad faith expert services to attorneys in insurance, fidelity and surety cases. Consulting and testifying on matters of claims handling of Performance Bond claims, Payment Bond claims, and other bond claims. www.TexasLexas.com.
- **Hudson Insurance Company, Manhattan, NY** 2012-2013
Manager of Surety Claims and Loss Control Assisted an insurance company with its start-up activities to develop a surety business and manage its initial performance bond and payment bond claims, together with managing its several Managing General Agents.
- **Claims Desk, LLC, Worcester MA / San Diego, CA** 2010-2012 As a
1099 Consultant, assisted small surety companies with their overload of performance and payment claims activities, provided training to new surety claims attorneys, served as company representative for attendance at mediations, arbitrations and trials. Some hybrid testimony as a fact witness and surety subject matter expert. Main client during this time was Insurance Company of the West, where I was resident in San Diego, CA.
- **The Hanover Insurance Group, Inc., Worcester, MA** 2005 to 2009
Senior Bond Claims Representative
Provided expertise to staff regarding collateral, indemnity, agency, legal and other issues. Investigated, researched, analyzed and negotiated contract (performance and payment bonds) and commercial claims, plus fidelity claims. Negotiated a termination for convenience on a performance bond on a major bridge project. Researched, developed, and drafted selected portions of bonds and contracts to assist the underwriting function. Provided expertise in documenting undertakings with Indian tribes and tribal-owned corporations. Trained and mentored junior claims professionals and underwriting interns. Coordinated cooperative efforts with CGL carriers on joint defense, indemnity and recovery.
- **The Guarantee Company of North America, USA** 2003 to 2005
Southfield, MI
Bond Claims Manager
Managed the handling of contract and commercial claims and the engaging of attorneys, accountants, engineers and construction consultants. Heavy emphasis on performance and payment bond claims. Coordinated cooperative efforts with CGL carriers on joint defense, indemnity and recovery.

- **Claims Management Associates, Inc., Houston, TX** 1996 - 2003
Claims Consultant
Formed company that conducted desk-relief, investigations, mediation attendance and other claims functions for fidelity insurers and contract and commercial sureties with limited or transitional staffing. Retained, trained, managed and mentored a large staff, including attorneys; paralegals; adjusters; consultants; administrators and construction experts. Clients included Highlands; Universal Surety of America; Western Surety Company; CNA; Frontier Insurance; Capitol Indemnity; Ranger Insurance; Chatham/Mapfre; Aacon, Inc.; Mid-State Surety Corp.; and others. Predominantly subdivision, **performance**, payment and supply bond claims.

- **Highlands Insurance Company, Houston, TX**
1991-1996 Promoted to Assistant Vice President of Claims
1989-1990 Promoted to Assistant Secretary & Bond Claims Superintendent.
1988-1989 Bond Claims Superintendent

Directly handled world-wide program of contract (**performance**, payment and supply bond) and commercial surety claims. Supervised handling of fidelity claims by property adjusters countrywide. Supervised handling of probate bond claims. Cross-trained to handle and supervise property claims nationwide while running off surety claims. Conducted legal research for, and consulted with, claims staff from auto; liability; inland marine; workers' comp.; and aviation. Assisted with the panel attorney list and litigation plan. Managed a full-scale law library of treatises and case reporters. Formed and headed Special Investigations Unit/Fraud Division. Coordinated cooperative efforts with CGL carriers on joint defense, indemnity and recovery

Supervised and audited SIU function of Workers' Comp. field adjusters in branches located nationwide plus the UK. Directed the preparation of trial evidence notebooks for use by District Attorneys. Provided guidance to all levels and lines of the company in combating fraud and in subrogation efforts. Obtained restitutionary recoveries and instrumental in significant avoidance of proven fraudulent claims.

- **Great American Insurance Company**
1987-1988 Promoted to Bond Claims Manager for the Mid-West, Home Office, Cincinnati, OH. Heavy emphasis on **performance** and payment bond claims.
➤ 1986-1987 Promoted to Bond Claims Manager for the West, Branch Office, Orange, CA. Heavy emphasis on **performance** and payment bond claims.
1984-1986 Construction Defect Specialist and Bond Claims Trainee, Branch Office, Orange, CA. First introduction to **performance** and payment bond claims. Trained by Bernard Floyd Miller, RIP.