Claims

COVERING THE BUSINESS OF LOSS

November 2017

Volume 65 . Number 11

PropertyCasualty360.com

NAVIGATING THE HAZE OF MARIJUANA COVERAGE

P. 24

Reprinted with permission from the November 2017 issue of *Claims* magazine

The National Underwriter Company

An ALM Publication

DETERMINING "WEATHER" OR NOT AN EXPERT IS QUALIFIED

By Howard Altschule

There are a wide variety of experts available to assist in almost any type of loss these days. Following multiple severe weather events like the recent hurricanes, major hailstorms or severe thunderstorms, adjusters, attorneys and some engineers are finding value in retaining a Certified Consulting Meteorologist (CCM) to provide expertise after a weather-related claim is filed.

Common meteorological analyses over a specific loss address can determine what the largest hail size was that fell at the property, how strong the winds were during a hurricane or windstorm, what storm surge heights existed, and other important weather information. With severe hailstorms and hurricanes becoming more numerous, it is even more important to get accurate and site-specific weather information from reliable experts.

Daubert challenges and other legal proceedings intended to preclude some experts from testifying about hail size, hurricane wind speeds, tornadoes and other weather information at a specific loss location are becoming more common, and successful challenges could be detrimental to the outcome of a case.

Qualifying your experts

Many carriers and law firms rely on professionals who are not meteorologists and simply use basic NOAA information, sometimes from quite far away, to support their opinions in their reports. With hundreds of thousands of claims, and hundreds of billions of dollars at

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stake from multiple severe hail events or Hurricanes Harvey, Irma and Maria, it's more important than ever to have accurate weather information from a qualified expert.

Some carriers and attorneys are now using qualified meteorologists to provide more reliable weather information and reports. When these analyses and reports are completed for a specific address, they are often provided to engineers involved in the case who do calculations based on the findings and to compile a more reliable report. This way, if a case proceeds to trial, the experts will be able to provide certified weather records and testify about their findings in a deposition or at trial.

So, how do you choose the right expert for your hurricane or hail claims? First, it's imperative that each expert stay "within their box." The last thing an attorney wants is a judge precluding an expert from testifying about hail size or wind speeds on a large loss claim because it's beyond his scope of expertise.

Here are several important factors that should be considered:

1. RETAIN A CERTIFIED CONSULTING METEOROLOGIST (CCM): CCMs have the highest certification a consulting meteorologist can obtain. They are experienced, underwent rigorous written and verbal examinations, and are highly regarded by their peers.

2. EDUCATION, EXPERIENCE AND KNOWLEDGE: Ensure that the CCMs used have worked on similar cases in the past. They should at least have a Bachelor of Science degree in Meteorology/Atmospheric Science. Non-meteorologists should not be giving opinions about the weather conditions that existed at specific loss locations.

3. EXPERT TESTIMONY: Make sure the expert retained is willing to testify, and it is helpful if he or she has significant testimony experience.

4. YOUR EXPERT SHOULD WORK FOR BOTH SIDES: An expert should be willing to work for anybody who wants to know about weather conditions, and their caseload should be pretty evenly split between cases for plaintiffs and defendants. If an expert only works for plaintiffs or only for defendants, that's a problem.

Hurricane claims and lawsuits

Hurricanes Harvey, Irma, Jose and Maria occurred weeks apart, each with a unique set of circumstances that have already caused tremendous debate within the insurance claims industry. Since many of the claims are valued at hundreds of thousands or millions of dollars of damage each, it is important to investigate each loss thoroughly.

Hurricane Harvey caused many places to experience damaging hurricane force winds and storm surge, while others experienced tropical storm-force gusts, extreme rainfall and devastating flooding. Damage claims from gusty winds, wind-driven rain and tornadoes have also been pouring into insurers.

There have been many tornado damage claims as a result of the numerous tornadic rotations that moved through

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the Houston Metro area. After a CCM plots the incident location on the radar products, a detailed analysis of the Doppler radar reflectivity and velocity radar images should be conducted for each case to determine if strong rotation or a tornado passed over a loss location. Using this information and other types of data, the maximum wind gusts, peak storm surge heights, presence of a tornado and the total rainfall can be determined for any location.

Even though a lot of the wind measuring equipment in south Florida and the Florida Keys failed or was knocked offline during Hurricanes Irma and Maria, we have many different tools and high resolution data sources to help us provide site-specific information for any location.

Hail claims and lawsuits

Hail damage in the U.S. is a huge multi-billion dollar peril each year. Knowing if and when hail occurred at a specific location is important to most claims. Because hail size can vary from one location to another over short distances, a CCM can conduct a thorough, site-specific analysis for each large loss hail claim. By providing details of the hail size at the specific location and when previous hail events occurred, adjusters and attorneys can make informed decisions on how to proceed with each case.

Industry-accepted methodology for investigating hail claims includes analysis of weather warnings, storm reports, Doppler radar images, differential reflectivity, correlation coefficient, as well as 3-dimensional volume scans or cross sections. When conducting a radar analysis over an incident location, for example, if the various radar images do not indicate hail, or if 50 Dbz reflectivity values [a logarithmic measurement used in weather] are not present above certain levels of the atmosphere over an incident location, then hail was not present.

An insurance claim was filed stating that golf ball-sized hail caused functional damage to a roofing system of a condominium complex. A NOAA hail report from three miles away was submitted as evidence of the storm. Numerous Doppler radar images and other official records were analyzed, which indicated the hail-producing thunderstorm stayed 2.0 miles south of the condominium development, and that no hail occurred on that date.

With the claim denied citing the forensic meteorology report and no evidence of hail damage on the roofing system, the carrier saved millions of dollars on that claim alone. Had the carrier also relied on that NOAA report from 2.0 miles away, the outcome would have been very different.

Experience matters

Too often, experts who are not meteorologists write reports that only include very basic NOAA storm reports as evidence. Many of these expert reports tend to be misleading, or they overlook more detailed and site-specific weather information that can lead to different results. The meteorological findings and basis of the experts' opinions could then become problematic as the case progresses, especially if an expert meteorologist is retained by the other side.

When selecting the right experts for claims or litigation, be sure to consider the qualifications of the expert, the value a CCM can bring to a case, and the consequences if non-meteorologist experts are unable to testify about weather conditions at the incident location.

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