

June 21, 2021

# Traub Lieberman Partner Gregory Pennington Successfully Moves to Bar “Expert” Testimony as Trial Court Flushes Public Adjuster’s “Expert” Opinions

Related Attorneys: Gregory S. Pennington

Traub Lieberman Partner Gregory Pennington represented a nationally recognized property insurer in a recent case where the insured claimed extensive property damages to the insured risk and contents when a water pipe froze and ruptured. After an investigation, inspection, and expert analysis of the home's heating system, and in particular, the propane tank supply, the claim was denied for material misrepresentation and increase in hazard, i.e. failing to take reasonable care to maintain heat to the home. Thereafter, the homeowner filed a lawsuit against the carrier. During discovery, the homeowner produced an estimate of damages from a licensed Public Adjuster. The Public Adjuster, named as an expert, also opined that the heating system was functional, that the homeowner maintained adequate heat source to the home, and that the loss was covered under the policy. At the close of discovery while a Trial date was pending, Gregory filed a motion to bar the Public Adjuster's opinions arguing that the Public Adjuster was not qualified and that the Public Adjuster's opinions were net opinions. The Trial Court agreed and barred the Public Adjuster from testifying regarding his “expert” opinions highlighted above, beyond his estimate for damages. This result was problematic for the homeowner, as he did not have a rebuttal expert at Trial to counter the defense engineer who opined that he failed to maintain heat to the home.