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## **SUMMARY**

Jeff Mitchell has thirty years of experience providing consulting services to clients in a variety of industries on complex insurance and reinsurance claims; health care claims; environmental, asbestos and other toxic tort matters; and commercial and contract litigation.

Mr. Mitchell has prepared, reviewed and analyzed first-party insurance claims involving property damage, business interruption (including contingent business interruption), and extra expense. His work has included analyzing claim costs, preparing proof of loss statements, and reviewing loss adjustments in matters involving hurricanes and other storms, train derailments, environmental contamination, product recalls, and other loss events. He has accumulated and analyzed costs to respond to property damage, including repair, replacement, and restoration of policyholder property; sue and labor expenses; and environmental investigation and remediation costs. He has analyzed loss of business income. His work has included evaluating historical revenue, costs, and avoided costs before and after insured losses. He has analyzed extra expense associated with maintaining business operations in the wake of insured losses. He has analyzed the effect on insurance recovery of various issues associated with first-party insurance claims, including number of occurrences; application of limits, sub-limits, and deductibles; consideration of potential betterments; and the application of various exclusions.

Mr. Mitchell has prepared and presented claims, and has negotiated settlements of claims with entities responsible for coverage underwritten by Lloyd's of London, solvent and insolvent London Market insurers, other foreign insurers, United States domestic insurers, and their counsel. Mr. Mitchell has provided expert witness testimony in insurance coverage litigation.

Mr. Mitchell has responded to insurer requests for information related to first-party insurance claims he has prepared, and he has presented his work to insurance company claims personnel, coverage counsel, and adjusters, accountants, and engineers retained by insurers. He has reviewed loss adjustments prepared by insurers, and has offered rebuttal positions on claim adjustment methods and results. Mr. Mitchell has participated in the negotiation and settlement of major first-party insurance claims.

Mr. Mitchell has analyzed liability insurance recovery for environmental, asbestos, and other health hazard liabilities, and design and construction defects.

Mr. Mitchell has supervised policy reconstruction and review efforts which have included insurance archaeology, developing policy data systems, conducting detailed reviews of insurance policies and related documentation, and summarizing policy information and coverage programs.

Mr. Mitchell has analyzed costs in connection with liability insurance coverage matters, including analyzing and documenting incurred costs, and developing projections of future costs associated with known claims and potential future liability exposures. His work has included accumulating, segregating and documenting relevant claim costs. Mr. Mitchell's work has been done to evaluate indemnity and defense costs, pre and post tender costs, the extent of damages, and other issues in insurance coverage matters.

Mr. Mitchell has developed sophisticated allocation models to allocate liability costs to insurance programs on a policy-by-policy, insurer-by-insurer, and claim-by-claim basis. These allocation models have included consideration of the complex interplay between many variables, including number of occurrences; trigger and scope of coverage; treatment of policy limits, self-insured retentions, deductibles and uninsured periods; various allocation and exhaustion methods; relevant exclusions; insolvencies; prior settlements, among others. Mr. Mitchell has also conducted probabilistic and statistical studies of liability costs and insurance recovery in light of factual and legal uncertainties.

Mr. Mitchell has analyzed billings and payments under various coverage-in-place agreements. His work has included analyzing historical claim costs and billings in relation to specific terms and conditions of coverage-in-place agreements, and reconciling claim costs, billings and payments. Mr. Mitchell has also evaluated potential payments under coverage-in-place agreements in relation to lump sum settlements.

Mr. Mitchell has evaluated insurance recovery from solvent and insolvent London Market Companies subject to UK Schemes of Arrangement.

Mr. Mitchell has evaluated inward and outward facultative and treaty reinsurance transactions and has analyzed reinsurance claims. Mr. Mitchell has reviewed and analyzed detailed accounting information as well as summary financial statements to evaluate the financial condition, performance and reporting of various business entities, including insurance and reinsurance companies.

Mr. Mitchell has experience with fidelity bond claims involving alleged criminal acts, managed care liability insurance coverage matters, and disputes between lenders and mortgage insurers.

Mr. Mitchell has experience with disputes between health insurers and health care providers. In these payer-provider disputes Mr. Mitchell has analyzed the accuracy of claims payments in relation to Provider Service Agreements to determine whether under and/or over payments of claims occurred. This work has involved inpatient, outpatient and emergency commercial claims, and has considered various adjudication criteria including, up-coding, bundling, coordination of benefits, third party liability, eligibility, deductibles, co-payments and other criteria. Mr. Mitchell has evaluated Medicare allowable amounts in relation to billed charges for such claims. Mr. Mitchell has reviewed claim audits and related adjustments.

Mr. Mitchell has experience with environmental matters. His work has included accumulating, segregating and analyzing investigation, remediation, legal and other costs relating to environmental clean-up projects, allocating costs among potentially responsible parties based on considerations of volume, toxicity, cost causation and other factors, and developing projections of potential future environmental clean-up costs.

Mr. Mitchell has conducted waste contribution analyses, and PRP searches and investigations, as well as information management related to environmental litigation. Mr. Mitchell has conducted historical research relating to ownership, operations, production, waste generation, and waste management and disposal practices of entities involved with environmental sites. Mr. Mitchell has assisted PRP groups and the EPA with design and implementation of diminimus settlement and cash-out programs.

In connection with asbestos litigation, Mr. Mitchell has evaluated the frequency and severity of historical asbestos claims, and has analyzed claim trends based on various claim characteristics. His work has included analyzing claim filing rates; settlement, judgment, and expense amounts; claim cycle durations; claim and disease types; sources and locations of asbestos claim filings, and other relevant factors. He has evaluated potential future asbestos liabilities based on client-specific claims experience and production, sales, distribution and operations data, epidemiological studies, labor statistics, and other academic, industry and governmental studies and data. He has also designed and implemented information management systems to track asbestos claims data and information.

#### **EDUCATION:**

Bachelor of Science, Business Administration

University of Illinois, 1983

#### **PRIOR POSITIONS HELD:**

ERS Group, President, 2009 -2009

LECG, LLC, Managing Director, 2002-2009

Navigant Consulting, Director 1999-2002

Peterson Consulting, Partner/Vice-President, 1990 - 1999

Peterson Consulting, Junior Staff and Senior Staff Positions, 1985 - 1990

#### **REPRESENTATIVE CASES:**

**U.S. Freight Railroad:** A major U.S. railroad company retained Mr. Mitchell to prepare its property loss, extra expense, and loss of business income insurance claim as a result of losses sustained during a major West Coast winter storm event. Our work included analysis and segregation of labor, materials, and contractor costs associated with repair and replacement of damaged track, roadbed, bridges, signal and communications systems, and land and waterways; analysis of extra expenses necessary to maintain service during and after the storm; evaluation of lost revenue, avoided costs, and contingent business interruption; preparation of the claim and all related exhibits; and assistance with the successful negotiation of the claim with the insurer and its consultants. The claim exceeded \$100M and our client recouped over 95 percent of claimed costs from its property insurers.

**U.S. Freight Railroad:** A major U.S. railroad retained Mr. Mitchell to prepare its property damage, extra expense, and loss of business income claim as a result of losses sustained during Hurricane Rita. Our work included analysis and segregation of labor, materials, and contractor costs associated with repair and replacement of damaged track, roadbed, bridges, signal and communication systems, and maintenance buildings; analysis of extra expenses necessary to maintain service during and after the hurricane; evaluation of lost revenue, avoided costs, and contingent business interruption; preparation of claim and all related exhibits; and assistance with the successful negotiation of the claim with the insurer and its consultants.

**U.S. Freight Railroad:** A major U.S. railroad company retained Mr. Mitchell to prepare its first-party insurance claim for losses sustained as a result of a winter storm in the Pacific Northwest. BRG's work included evaluating extra expense and repair and restoration costs associated with property damage and loss of business income.

**Investor-Owned Public Electric and Gas Utility:** Mr. Mitchell was retained by a major public utility to review the insurers' adjustment of its property insurance claim for costs to repair and restore damage transmission, distribution, and hydro systems caused by severe winter storms. Mr. Mitchell's work included accumulating, segregating and documenting past costs, developing allocations of indirect and overhead costs and in-house labor costs, and analyzing estimates of future costs. Mr. Mitchell prepared alternative analyses of potentially recoverable amounts considering variations in interpretation of the definition of occurrence, policy exclusions, and treatment of applicable deductibles. Mr. Mitchell assisted with mediation proceedings and settlement negotiations.

**California Fishermen Trade Association:** A trade association of fishermen retained Mr. Mitchell to analyze loss of business income and extra expense claims associated with damage to a fishery caused by an oil spill that contaminated the fishing grounds.

**U.S. Freight Railroad:** A major railroad company retained Mr. Mitchell to provide property and liability insurance claims services in connection with a train derailment that caused owned property and third-party property damage. This matter involved contamination of air, land, and adjacent waterways. Mr. Mitchell quantified costs for both the liability and property insurance claims. Mr. Mitchell prepared and presented the claims to insurers, and directly participated in successful settlement negotiations.

**U.S. Freight Railroad:** Mr. Mitchell was retained by a major Class I Freight Railroad to analyze insurance recovery for FELA liabilities - including asbestos, hearing loss, repetitive strain, and deleterious substances claims; and environmental claims. in connection with settlement negotiations with various insurers. Mr. Mitchell's analyzed historical FELA and environmental claims and costs, and developed projections of future liabilities, and made allocations to insurers in eight insurance programs associated with the company's mergers and acquisitions over time. Mr. Mitchell directly participated in settlement negotiations of the comprehensive claim.

**U.S. Insurance Company:** Mr. Mitchell was retained by a major US insurer to assess estimates of possible future asbestos liabilities prepared for a major bankrupt asbestos defendant. Mr. Mitchell analyzed the underlying assumptions used in preparing the estimates, the reasonableness of the estimates, and the allocation of the estimated costs to historical liability insurance coverage.

**U.S. Manufacturer:** A manufacturing company specializing in the manufacture of precision components engaged Mr. Mitchell to provide valuation and settlement advisory services for claims against its liability insurance carriers related to environmental contamination stemming from historical manufacturing operations at two sites: an NPL site in Arizona and a manufacturing facility in California. Mr. Mitchell analyzed historical environmental cleanup and response costs and developed estimates of future environmental liabilities, including potential NRD claims. Mr. Mitchell allocated liabilities to insurance coverage, conducted analysis of potential insurance recovery considering factual and legal uncertainties, prepared an insurance claim, and supported successful settlement negotiations with insurers.

**U.S. Mining Company:** Mr. Mitchell assisted a U.S.-based copper-mining company with cost and allocation analyses used in settlement negotiations with its liability insurance carriers. The analysis focused on the policyholder's copper-mining and processing operations, primarily located in the southwestern United States. Mr. Mitchell accumulated, segregated, and documented past cleanup costs and developed estimates of future cleanup costs. Mr. Mitchell allocated these costs to liability insurance coverage considering a variety of potential jurisdictions and other allocation variables and assumptions. The client ultimately settled favorably with its liability insurance carriers.

**U.S. Passenger Railroad:** A major transportation company retained Mr. Mitchell to analyze Federal Employers Liability Act (FELA) liability, including asbestos, hearing loss, repetitive strain and deleterious substances claims, and environment claims in connection with its claim against its liability insurance carriers. Services included an analysis of historical asbestos claims and trends, projections of future asbestos claims, valuation of pending and future asbestos liability, and allocation of claim costs to insurance coverage on an insurer-by-insurer and policy-by-policy basis. Mr. Mitchell prepared, presented, and participated in negotiations with the client's U.S. liability insurance carriers and London Market Insurers (LMI).

**Canadian Petrochemical Company:** A Canadian petroleum company (client) that purchased the Canadian operations of another petroleum company (seller) engaged Mr. Mitchell. The client acquired the assets, as well as the environmental liabilities, associated with the Canadian operations of the seller, and was responsible for past and estimated future liabilities associated with hundreds of environmental sites, including refineries, chemical plants, bulk plants, distribution terminals, and service stations. Prior to the client's purchase, the seller entered into settlement agreements with many of its insurers for past and potential future liabilities stemming from the seller's Canadian operations, and indemnified certain of these insurers. Mr. Mitchell was engaged to provide valuation, settlement advisory services, and litigation support for claims against the seller (through its indemnification of insurers) and the liability insurance carriers that insured the Canadian operations prior to sale. Mr. Mitchell analyzed insurance coverage for the Canadian operations; analyzed environmental investigation, cleanup, and response costs; allocated liabilities to insurance coverage; conducted analysis of potential insurance recovery from insurers and from the seller, provided litigation support; prepared and presented insurance claims; and participated in successful settlement negotiations.

**Canadian Tobacco Company:** A Canadian tobacco company retained Mr. Mitchell to provide liability insurance claim valuation and settlement advisory services. Mr. Mitchell provided various analyses of

alleged tobacco claims, including those related to individual actions, class actions, and provincial recoupment actions. Mr. Mitchell quantified historical and potential indemnity and defense costs, assessed available historical liability insurance coverage, and evaluated potential insurance recovery using propriety allocation models that considered factual and legal uncertainties.

**HVAC Company:** Mr. Mitchell was retained by a Heating Ventilation and Air Conditioning company to evaluate insurance for asbestos liabilities for a company it was considering acquiring (“Target Company”). Mr. Mitchell’s work focused on evaluating the Target Company’s asbestos liabilities and available insurance coverage. This included analyzing indemnity and defense payments made by primary insurers under a cooperative coverage-in-place (CIP) arrangement and the erosion and exhaustion of primary policy limits; and quantifying the potential recoveries from umbrella and excess insurers upon exhaustion of the primary policies. Mr. Mitchell’s work included reviewing historical asbestos indemnity and defense costs, analyzing asbestos claims and cost trends with respect to potential future asbestos indemnity and defense costs, quantifying payments made by primary insurers and the erosion and exhaustion of primary policy limits, and making allocations to remaining primary limits and excess policies. Mr. Mitchell also identified uncertainties associated with securing future insurance recoveries.

**Real Estate Development Company:** Mr. Mitchell served as an expert witness on allocation issues in a construction defects insurance coverage case involving a residential real estate development project.

**U.S. Chemical Company:** Mr. Mitchell was retained to develop an allocation model and allocate asbestos indemnity and defense costs to historical liability insurance coverage. Mr. Mitchell modeled multiple allocation scenarios considering factual and legal uncertainties, including scope, treatment of defense costs, and treatment of aggregate limits.

**Insurers:** A group of insurers retained Mr. Mitchell to evaluate loss payments and defense costs claimed by a manufacturer of hardboard siding due to alleged design and construction costs. Mr. Mitchell also performed allocations of loss payments and defense costs to the liability insurance coverage maintained by the hardboard-siding manufacturer, and analyzed insurance allocations by the manufacturer. Mr. Mitchell’s work was used in litigation and settlement discussions between the manufacturer and insurers.

**Multinational Pharmaceutical Company:** Mr. Mitchell was retained to provide expert witness testimony regarding the policyholder’s claim against its liability insurance carriers for damages associated with dioxin contamination stemming from the client’s Midwestern manufacturing plant. Mr. Mitchell accumulated, segregated, and documented incurred cleanup and response costs. The matter was ultimately resolved via settlement.

**Major Lawn & Garden Care Company:** Mr. Mitchell quantified and provided expert testimony on damages in an environmental insurance coverage case involving this company.

**Multinational Chemical Company:** A U.S.-based chemical company retained Mr. Mitchell to provide valuation and settlement advisory services in connection with its claims against its liability insurance carriers for environmental cleanup costs at various product formulation, blending, distribution, and

other facilities. Mr. Mitchell quantified past and future environmental cleanup costs; developed and implemented a model to allocate costs to liability insurance coverage; analyzed potential insurance recovery considering various factual and legal uncertainties; and prepared and presented claims to U.S. insurers and LMI. The policyholder successfully settled its claims.

**Multinational High-Tech Manufacturing Company:** The policyholder, a market-leading manufacturer of computers, printers, and other electronic equipment, retained Mr. Mitchell to provide valuation and settlement advisory services for its claims against its liability insurance carriers for past and estimated future costs associated with its manufacturing plants and third-party hazardous waste disposal sites, landfills, and recycling facilities. Services included analyzing cleanup and response costs, allocating costs to liability insurance coverage, analyzing potential insurance recovery, and assisting with settlement negotiations.

**Investor-Owned Public Electric and Gas Utility:** The policyholder retained Mr. Mitchell to provide valuation, settlement advisory, and litigation support services for its claims against its liability insurance carriers for past and estimated future costs associated with hundreds of environmental sites, including former manufactured gas plants, power plants, compressor stations, substations, service centers, underground storage tank sites, and third-party hazardous waste disposal sites, landfills, and recycling facilities. Services included analyzing liability insurance policies dating back to the early 1930s, analyzing cleanup and response costs, performing allocations of costs to liability insurance coverage, analyzing potential insurance recovery, providing litigation support, administering the notice process, and assisting with settlement negotiations.

**Investor-Owned Public Gas and Electric Company:** Mr. Mitchell was retained by a major public utility to provide valuation, settlement advisory services, and litigation support in connection with its liability insurance claim associated with ownership and operations of former manufactured gas plants, power plants, substations, service centers, underground storage tank sites, and third-party hazardous waste disposal sites, landfills, and recycling facilities; and liabilities associated with asbestos exposure. Services included analyzing insurance policies, analyzing indemnity and defense costs, performing allocations of costs to liability insurance coverage, and assisting with settlement negotiations. Mr. Mitchell also provide testimony at trial in the policyholder's insurance coverage lawsuit.

**Investor-Owned Public Gas Utility:** Mr. Mitchell provided liability insurance valuation and settlement advisory services to a utility in connection with its manufactured gas plant liabilities. Mr. Mitchell developed an insurance policy database, allocated environmental cleanup costs to historical liability insurance coverage, and applied statistical probabilistic methods to quantify a range of possible allocated shares by insurer. Mr. Mitchell participated in settlement negotiations with liability insurance carriers addressing issues related to allocation.

**Investor-Owned Public Gas Utility:** The policyholder retained Mr. Mitchell to provide valuation and settlement advisory services for its claims against its liability insurance carriers for past and estimated future costs associated with hundreds of environmental sites, including former manufactured gas plants, underground storage tank sites, and third-party hazardous waste disposal sites, landfills, and recycling facilities. Services included analyzing liability insurance policies, cleanup and response

costs, and potential insurance recovery; performing allocations of costs to liability insurance coverage; and assisting with settlement negotiations.

**Multinational Petrochemical Company:** Mr. Mitchell was retained by a major oil and gas company to assist it with a products liability insurance coverage matter. Mr. Mitchell provided settlement advisory services and served as a witness in connection with arbitration against certain of the insurers. Mr. Mitchell quantified historical indemnity and defense costs, developed projections of possible future indemnity and defense costs, made allocations to various insurers on the risk for these products liability losses. Mr. Mitchell was directly involved in numerous settlement negotiations with major US, and London and other foreign market insurers. These negotiations resulted in lump sum settlements with some insurers, and CIP agreements with others. Mr. Mitchell administers these CIP agreements.

**Multinational Petrochemical Company:** A major petrochemical company engaged Mr. Mitchell to provide valuation, settlement advisory services, and litigation support for an environmental claim brought against it by a former affiliate. Mr. Mitchell provided expert testimony on damages and allocations.

**Multinational Petrochemical Company:** A major petrochemical company engaged Mr. Mitchell to provide valuation, settlement advisory services, and litigation support for its asbestos claims against over 300 solvent insurers that participated in multiple insurance programs relating to the company's legacy ownership and operations. Mr. Mitchell's work included quantifying historical asbestos premises and products liabilities, analyzing historical claims activity and trends, developing allocation models and performing allocations of asbestos indemnity and defense costs to policies. Mr. Mitchell directly participated in settlement negotiations with insurers which resulted in policy buy-back settlements and CIP agreements. Mr. Mitchell administered the CIP agreements with various carriers. Mr. Mitchell also served as a witness in the coverage litigation on asbestos claims, costs and allocations.

**Multinational Petrochemical Company:** A major petroleum company engaged Mr. Mitchell to provide valuation and settlement advisory services for its asbestos liability claims against insolvent U.S. insurers, and insolvent and solvent LMI in schemes of arrangement. Mr. Mitchell analyzed historical and potential future asbestos liabilities for asbestos premises and products claims from several predecessor companies' operations. Mr. Mitchell prepared and presented insurance claims and participated in successful settlement negotiations.

**Multinational Petrochemical Company:** A major petroleum company engaged Mr. Mitchell to provide valuation, settlement advisory services, and litigation support for liability insurance claims related to past and estimated future environmental stemming from petroleum refining, marketing, and transportation assets purchased from another company. The client asserted rights to insurance coverage issued to the company that operated the acquired assets from inception through the mid-1980s, and pursued insurance recoveries from environmental liabilities stemming from the acquired assets. Mr. Mitchell analyzed environmental cleanup, natural resource damages (NRD), and response costs, and developed estimates of potential future environmental liabilities. Mr. Mitchell allocated liabilities to insurance coverage, analyzed potential insurance recovery considering factual



and legal uncertainties, and prepared and presented insurance claims to LMI, including in schemes of arrangement.

**Multinational Petrochemical Company:** A multinational petrochemical company engaged Mr. Mitchell to provide valuation, settlement advisory services, and litigation support for its liability insurance claim associated with ownership and operation of hundreds of environmental sites, including refineries, chemical plants, gas plants, bulk plants, distribution terminals, service stations, exploration and development operations, pipeline operations, and third-party waste sites. Mr. Mitchell analyzed insurance policies for seven liability insurance coverage programs; analyzed indemnity and defense costs; allocated liabilities to insurance coverage; conducted analysis of potential insurance recovery considering factual and legal uncertainties; provided litigation support; prepared and presented insurance claims to over 100 insurance companies; and directly participated in successful settlement negotiations.

**Multinational Petrochemical Company:** Mr. Mitchell was retained by a major oil and gas company to assist with a liability insurance coverage matter involving property damage and personal injury claims stemming from certain operations. Thousands of claims were made against the policyholder for property damage, diminution in value, and personal injury. Mr. Mitchell was retained to quantify indemnity and defense costs, perform allocations to insurers, prepare the insurance claim, provide settlement advisory services, and litigation support.