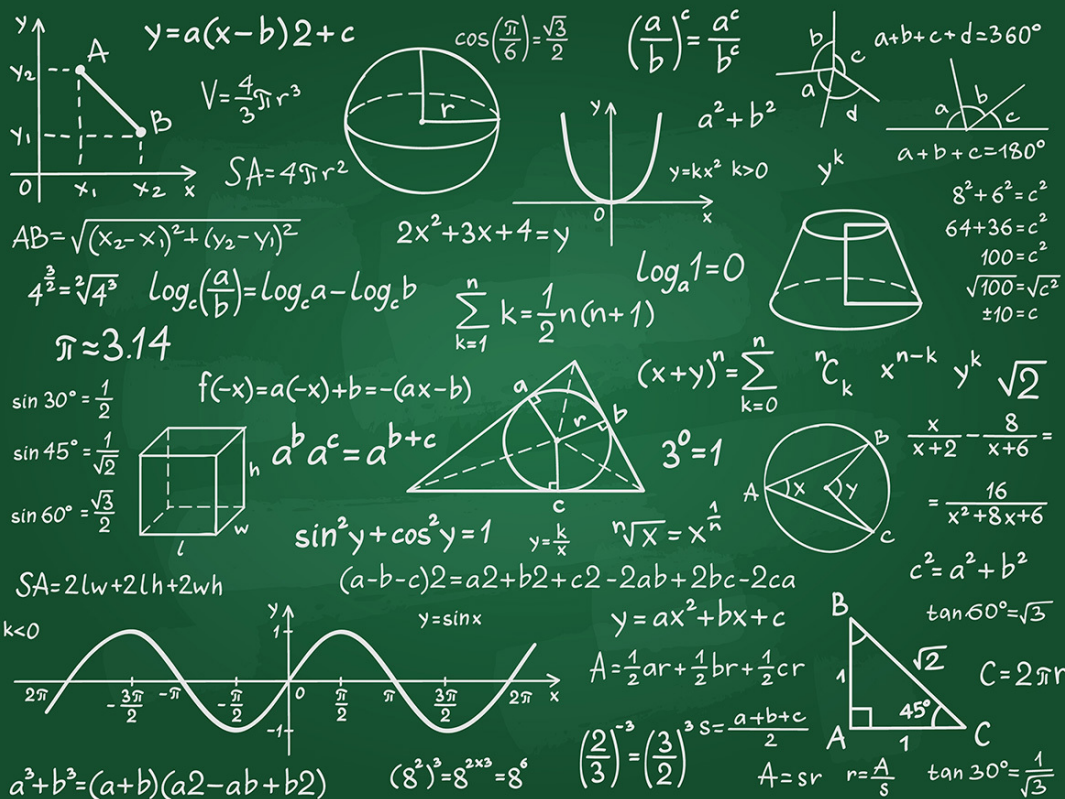


Subrogation Calculus



DATE

5/12/2026

GENERAL INFO

866-706-7327

info@petefowler.com

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Pete Fowler
CONSTRUCTION
Services, Inc.

Date: 05/12/2026
To:
From: Pete Fowler Construction Services, Inc.
Regarding: Audience Handout Package

Meet the Panel

Pete Fowler

CHIEF QUALITY OFFICER - PETE FOWLER CONSTRUCTION

Pete Fowler is a construction consultant, professional cost estimator, President and Chief Quality Officer of Pete Fowler Construction, a licensed general building contractor in California, Nevada, and Oregon. Pete received a B.S. in Construction Management from CSU, Chico. He has held certifications from AAMA, ASPE, ICBO, and others. Mr. Fowler has published articles in national magazines, has been invited to speak by the most important groups in the building industry (AAMA, APRA, ASPE, ASQ, ASTM, BETEC, CAI, CLM, DBIA, ICC, NIBS, PLRB, RCI, etc.), and has composed and delivered hundreds of educational programs on building inspection & testing, estimating, quality & construction management, project management, and claims & litigation. Pete has experience with successful expert witness testimony, including Federal Court.

Brian Letofsky

PARTER - WATKINS & LETOFSKY, LLP

Mr. Letofsky is a 1988 graduate of San Francisco State University where he played both football (quarterback) and baseball (catcher). Since graduating from University of San Diego School of Law in 1991, he has worked for 26 years in general civil litigation, with an early extensive focus in construction defect defense of developers, general contractors and subcontractors in almost all trades.

Mr. Letofsky provides a unique experience level and perspective due to even work on both the Plaintiff and Defense side throughout his career. From his beginnings working in the insurance defense field, to personal injury, to subrogation and product liability defense work, he has gained experience that helps him try to resolve cases at their most economically feasible position.

In the past 17 years, Mr. Letofsky, a member of the National Association of Subrogation Professionals, has become extensively experienced in the subrogation field, by prosecuting thousands of cases in workers' compensation, fire, property, product, insurance and automobile subrogation.

Subrogation Calculus:

A Simple Framework for Making 'Go/No Go' Subrogation Decisions for Claims Professionals



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Pete Fowler
CONSTRUCTION
Services, Inc.

INTRODUCTION

In this program we argue that navigating subrogation cases is best performed with a disciplined approach. Carriers, legal teams, and subject matter experts should work together to make informed, return-on-investment (ROI) decisions. We have decades of experience in claims investigation and in organizational continuous process improvement, working perpetually to deliver more value and less waste throughout the entire subrogation process, from the first notice of loss to the final recovery.

"Subrogation Calculus" is a simple, process-driven method designed to maximize net recovery. We'll introduce a phased framework for subject matter expert analysis, which allows for a step-by-step, ROI-based approach to investigations. The presentation covers how to effectively use expert consultants and legal counsel, package a claim for maximum impact, and make informed decisions on whether to settle or continue to litigate.

Claims professionals and subrogation specialists need a predictable, controlled, and efficient way to manage their subrogation claims. We'll provide you with the necessary tools to identify and eliminate waste, ensuring clear communication, and build a reputation for tenacity. By the end, you'll have a clear model for making confident, profitable decisions.

PROGRAM OUTLINE

1. Introduction
2. What is Subrogation
3. When to Hire a Subrogation Lawyer
4. When to Hire a Subject Matter Expert
5. Packaging Your Claim
6. The Art of the Deal
7. Conclusion

LEARNING OBJECTIVES

- Introduce what subrogation is and how it works.
- Explain when insurance professionals should consider hiring a subrogation lawyer.
- Explore when to hire a subject matter expert to help make the case.
- Examine the fundamentals of process engineering and eliminating waste using continuous process improvement tools.
- Describe how to package a subrogation claim.
- Discuss dealmaking in the world of subrogation.

PROGRAM CONTENTS

1. Introduction – 5 Minutes
 - A. Presenter Information
 - B. Program Outline
 - C. Introduction
 - D. Learning Objectives
2. What is Subrogation – 8 Minutes
 - A. Subrogation Litigation: Bring Order to Chaos by Following Standard Operating Procedures.
 - B. The Core Principle: Stepping into the Insured's Shoes and the Right of Recovery.
 - C. Subrogation Organizational Chart: Mapping the typical flow from First-Party Claim to Recovery.
 - D. Initial Steps by Insurer: Recognize Subrogation Potential.
 - E. The Strict Economic Logic: The Cost of Recovery Must Be Proportional to the Likely Recovery Value.
 - F. Defining Success: Focus on Net Recovery, not just Gross Settlement Amount.
 - G. The Calculus Starts Here: Initial assessment of liability and damages against costs.
3. When to Hire a Subrogation Lawyer - 8 Minutes
 - A. The Threshold: When Internal Investigation and Recovery Efforts Have Maxed Out.
 - B. Selecting Counsel: Partnering with firms known for their reputation and willingness to litigate ("take someone to the mat").
 - C. How Carriers Lose Subrogation Claims and Increase Costs.
 - D. Critical Steps by Insurer to Maximize Recovery: Authorize Joint Communal Site Inspection for all Potential Responsible Parties.
 - E. Clear Communication: Establishing goals and constraints (time, budget) with legal counsel early.
4. When to Hire a Subject Matter Expert - 12 Minutes
 - A. Tough Subrogation Claims.
 - B. Diagnosing "Value Drain": Identifying the common wastes in expert engagement (Over-processing, Waiting, Defects).
 - C. The Foundational Shift: Viewing expert work as a managed Value Stream focused on ROI.
 - D. MVP Thinking (Minimum Viable Product): Structuring the initial engagement as a low-cost, Level 1 Desktop Review to answer the core "Go/No-Go" question.
 - E. The Phased Engagement Framework: Utilizing the 5 Levels of Analysis (Desktop, Preliminary, Investigative, Detailed, Final) to control costs incrementally.
 - F. Budgeting Discipline: Tying the expert's scope and budget directly to the maximum potential case value.
 - G. Quality Control: Implementing the C3PO Standard for all deliverables (Correct, Clear, Concise, Precise, Objective).

5. Packaging Your Claim - 10 Minutes

- A. From Pile to Proof: Systematic approach for transforming raw evidence (the "Pile") into organized, indexed, and summarized knowledge (the "Solution").
- B. Creating the Defensible Record: Ensuring all evidence is managed and preserved to withstand legal challenge.
- C. Tailoring Deliverables: Producing a Summary Memo (Level 2) instead of a Full Expert Report (Level 4) when a case is likely to settle early.

6. The Art of the Deal - 7 Minutes

- A. The Subrogation Calculus in Negotiation: Using a data-driven ROI framework to set firm settlement targets.
- B. Managing Reputational Risk: Understanding how your firm's willingness to invest in a case influences the defense's settlement posture.
- C. The Final Go/No-Go: Deciding to Settle, Escalate, or Drop based on remaining costs vs. potential net recovery (Referencing Trial Factors).

7. Conclusion – 10 Minutes

- A. Backup Materials
- B. Feedback

BACKUP MATERIALS

1. Case Study: [Fanning the Flames of Subrogation](#)
2. [Under Investigation: The Fundamentals of Property Claims Investigations and the Role of SMEs](#) by Pete Fowler and Paul Mason
3. [Four Factors to Consider When Taking a Case to Trial](#) by Pete Fowler, Bob Carlson, Ken Kasdan, and Barbara Laskaris-Lorigan
4. [Trials: Tribulations, Triumphs, or Both - Making Smart Decisions About Taking Cases to Trial](#) by Pete Fowler
5. [The Zero-Waste Subrogation Expert: A Process-Driven Framework for Maximizing Recoveries](#) by Pete Fowler & Brian Letofsky
6. [Allocation of Responsibility in Construction-Defect Litigation](#) by Pete Fowler
7. Case Study: [Subrogation: A Roofer Ruins a Home](#)

COMBINED CLAIMS CONFERENCE 2026



Subrogation Calculus:

A Simple Framework for Making
'Go/No Go' Subrogation Decisions
for Claims Professionals

With Pete Fowler, and Brian Letofsky



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Meet our Presenters



Pete Fowler

Chief Quality Officer
Pete Fowler Construction Consultants



Brian Letofsky

Partner
Watkins & Letofsky, LLP





Outline

TITLE OF PRESENTATION GOES HERE

- Introduction
- What is Subrogation
- When to Hire a Subrogation Lawyer
- When to Hire a Subject Matter Expert
- Packaging Your Claim
- The Art of the Deal
- Conclusion

Introduction



Learning Objectives

- 
- Introduce what subrogation is and how it works.
 - Explain when insurance professionals should consider hiring a subrogation lawyer.
 - Explore when to hire a subject matter expert to help make the case.
 - Examine the fundamentals of process engineering and eliminating waste using continuous improvement tools.
 - Describe how to package a subrogation claim.
 - Discuss dealmaking in the world of subrogation.

What is Subrogation?



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Subrogation

Subrogation Litigation

WHERE WE START

Bring Order to Chaos by following
Standard Operating Procedures (SOP)

- Leads to greater efficiency
- Leads to less time and effort
- Leads to more thorough analysis
- Leads to higher recovery percentages

= SUCCESS!



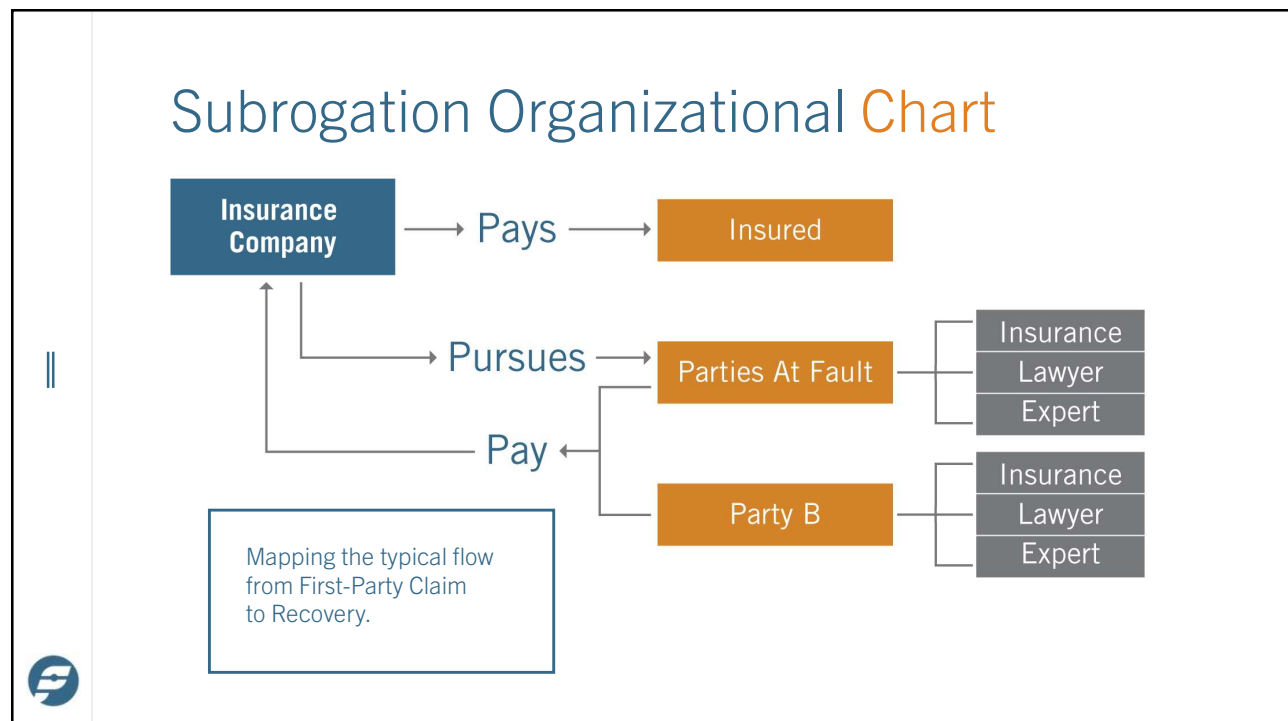


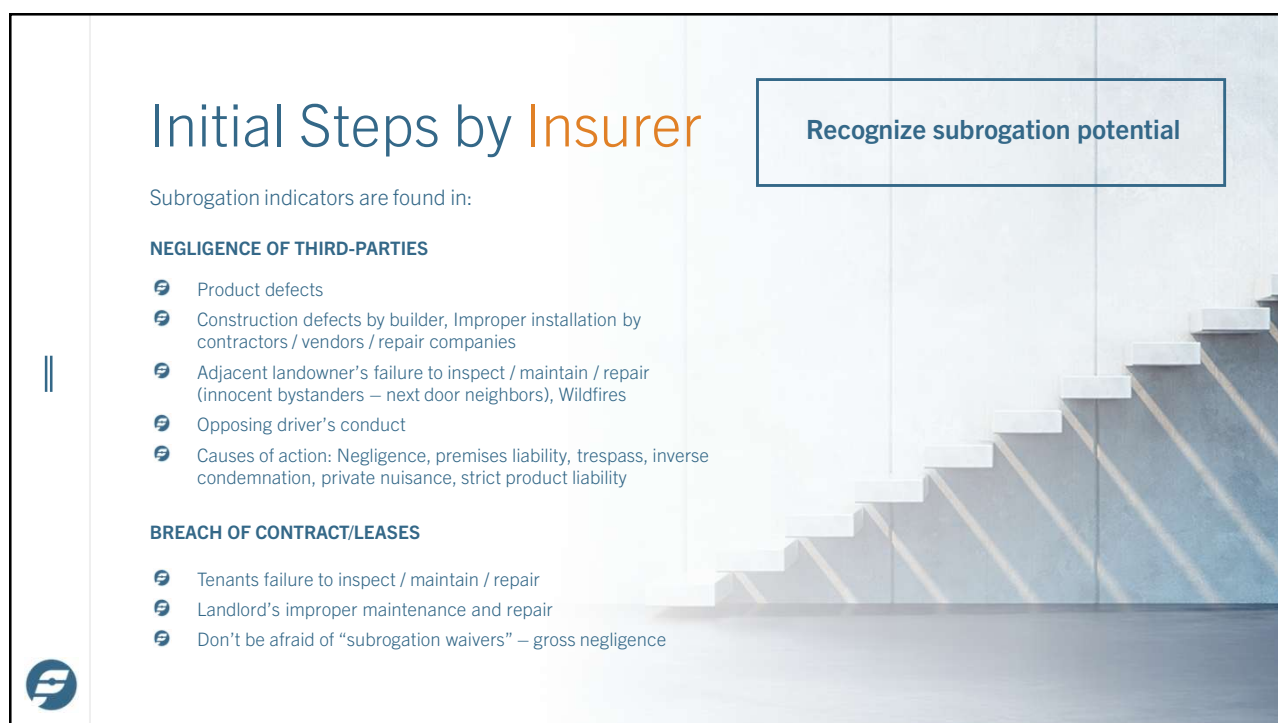
The Core Principle

Stepping into the Insured's Shoes
and the Right of Recovery



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Initial Steps by Insurer

Recognize subrogation potential

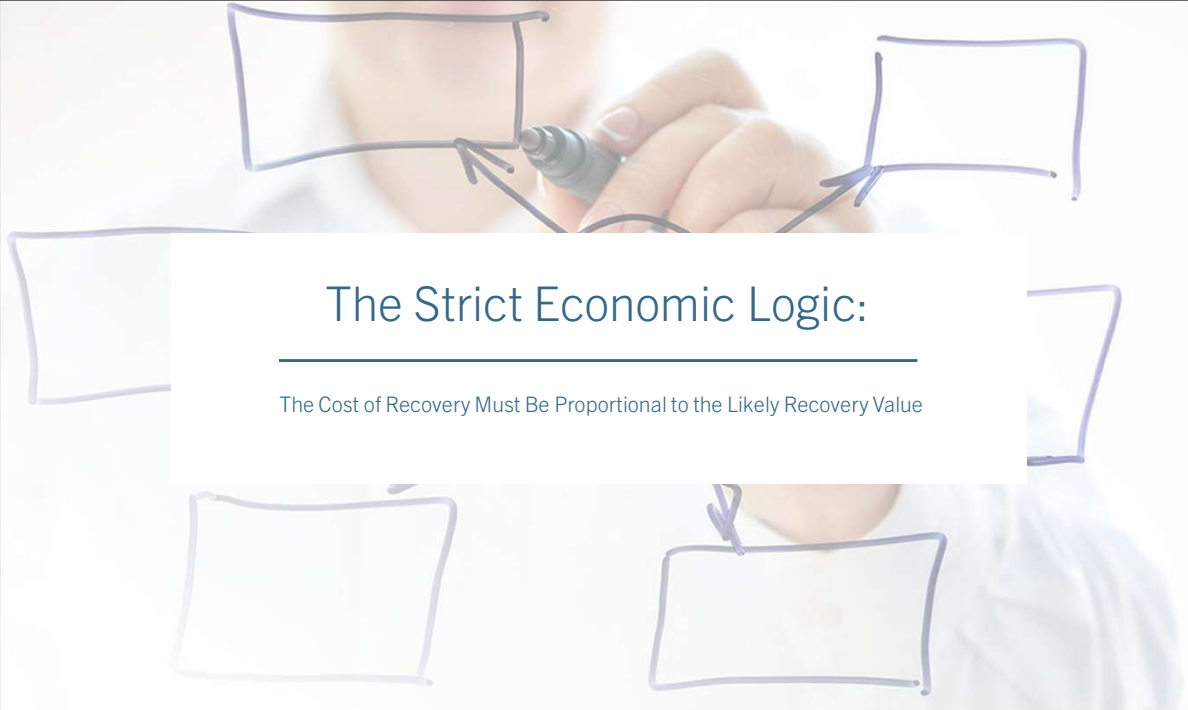
Subrogation indicators are found in:

NEGLIGENCE OF THIRD-PARTIES

- Product defects
- Construction defects by builder, Improper installation by contractors / vendors / repair companies
- Adjacent landowner's failure to inspect / maintain / repair (innocent bystanders – next door neighbors), Wildfires
- Opposing driver's conduct
- Causes of action: Negligence, premises liability, trespass, inverse condemnation, private nuisance, strict product liability

BREACH OF CONTRACT/LEASES

- Tenants failure to inspect / maintain / repair
- Landlord's improper maintenance and repair
- Don't be afraid of "subrogation waivers" – gross negligence



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The Strict Economic Logic:

The Cost of Recovery Must Be Proportional to the Likely Recovery Value





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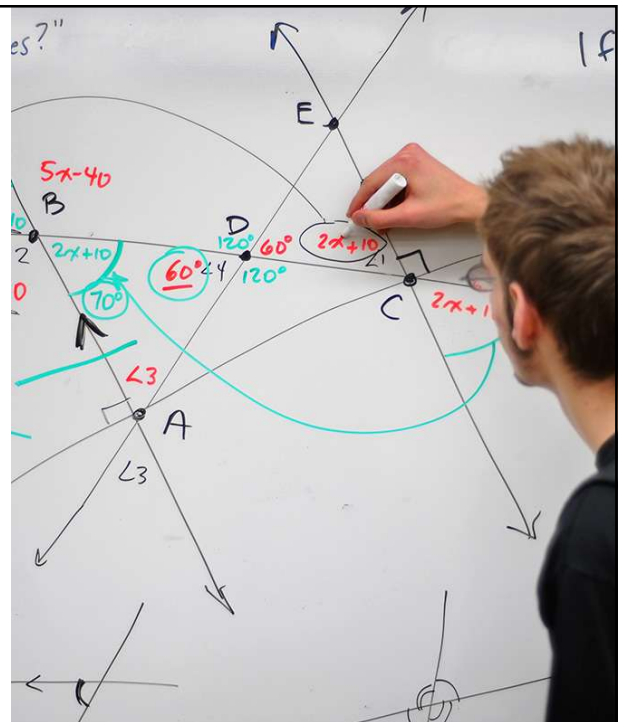
Defining Success

Focus on Net Recovery, not just
Gross Settlement Amount



The Calculus Starts Here

Initial assessment of liability
and damages against costs







The Threshold

When Internal Investigation and Recovery Efforts Have Maxed Out





How Carriers Lose Subrogation Claims and Increase Costs

1. **Improper investigation** – failure to hire O&C fire investigators immediately to get preliminary opinions (get a summary with photos with recommendation to pursue subro).
2. **Delaying reporting subrogation Potential to superiors and retaining council to schedule inspections**
 - A. Every case needs evidence of the loss – every case needs a joint scene inspection with the potential 3rd parties.
 - B. Fire department, weather, insureds destroy the evidence.
 - C. Causes problems with insured and PA relationship with delays for inspections
 - D. Causes higher claims due to delays, more damage to structure and personal property, and longer additional living expenses.



Critical Steps by Insurer to Maximize Recovery

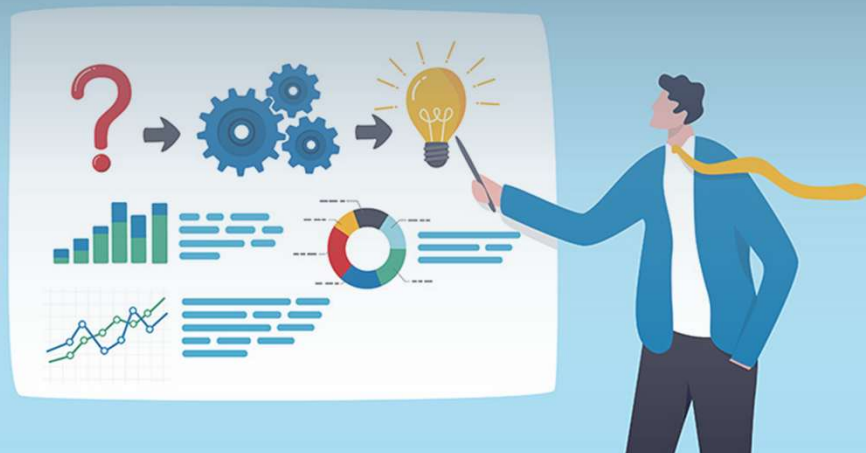
Authorize joint communal site inspection for
all potential responsible parties

- Leads to efficient litigation and early resolution of cases as the maximum recovery rate
- Early notice to potential third party targets is critical – **they view the extent of damage firsthand – they get to see, touch, and smell the evidence in place**
- The earlier the evidence retention, the better the analysis of more evidence – avoid spoliation defense
- Pictures cannot replicate visual inspections





When to Hire a Subject Matter Expert



Tough Subrogation Claims

- ☞ Multiple sources of ignition in garages
- ☞ Commercial losses with subro waivers
- ☞ Fires from products with foreign manufacturers
- ☞ Vehicle fires – so much burns
- ☞ Difficult Defendants –
Broan Nutone, Southern California Edison
- ☞ Water heater and furnace fires
- ☞ Uninsured Defendants / Unlicensed Contractors
and handymen

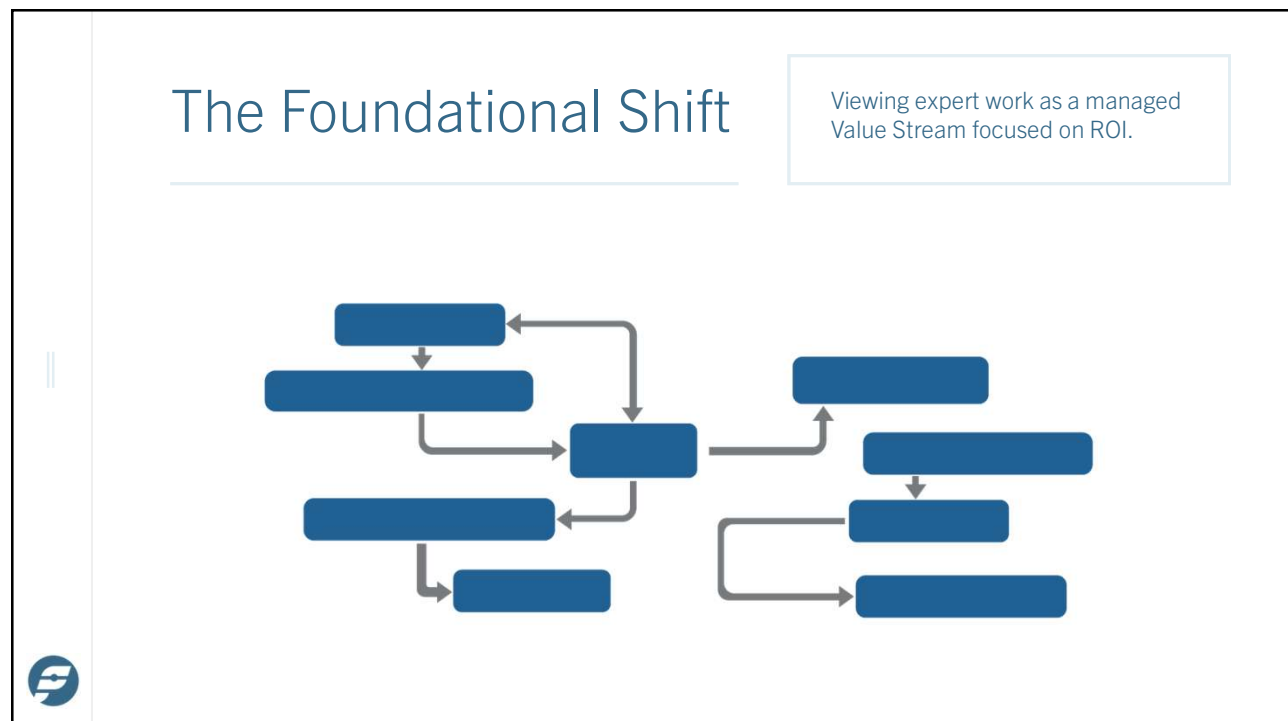


Diagnosing Value Drain

Identifying the common wastes
in expert engagement

(Overprocessing, Waiting, Defects)





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MVP Thinking

(Minimum Viable Product)

Structuring the initial engagement as a low-cost, Level 1 Desktop Review to answer the core "Go/No-Go" question

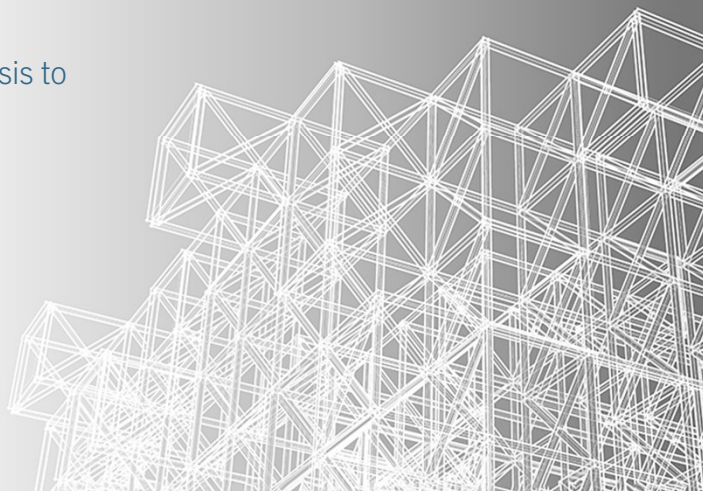


The Phased Engagement Framework

5 LEVELS OF ANALYSIS

Utilizing the 5 Levels of Analysis to control costs incrementally:

- Desktop
- Preliminary
- Investigative
- Detailed
- Final

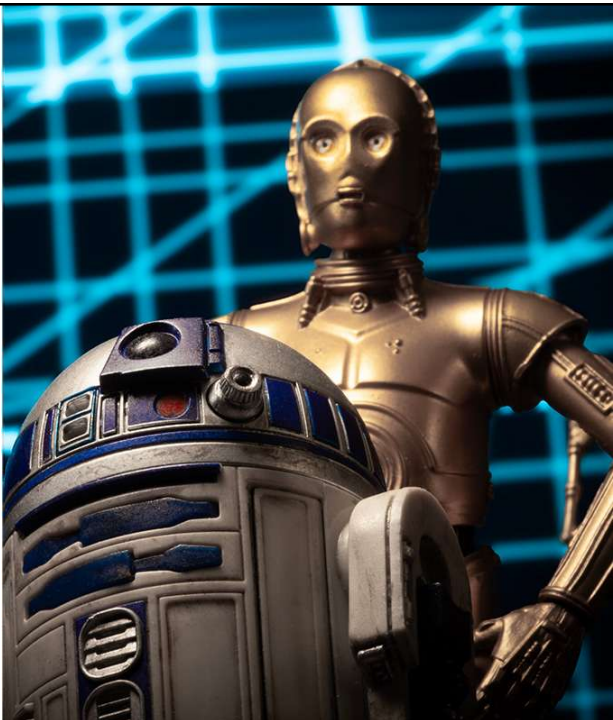


A photograph of a person with dark curly hair, seen from the back, sitting at a light-colored wooden desk. They are wearing a white long-sleeved shirt with thin black vertical stripes. On the desk, there is a silver laptop, a stack of papers, a large silver calculator, a smartphone displaying a spreadsheet, and a blue pen. A white rectangular box is overlaid on the center of the image, containing the title 'Budgeting Discipline' and a subtitle.

Budgeting Discipline

Tying the expert's scope and budget directly to the maximum potential case value

A small circular logo with a stylized 'F' inside, located in the bottom left corner of the image frame.



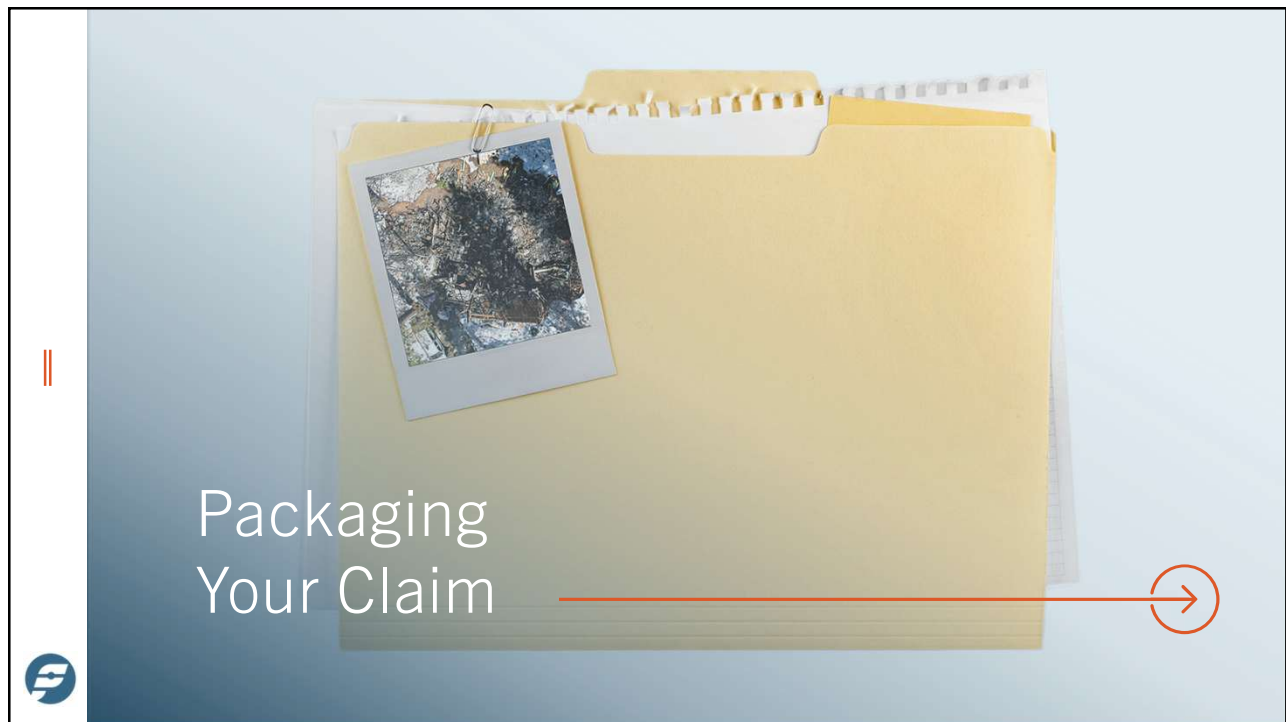
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Quality Control

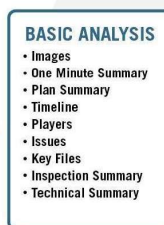
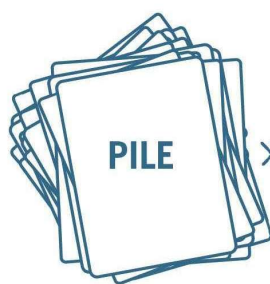
Implementing the C3PO Standard
for all deliverables

(Correct, Clear, Concise, Precise, Objective)





From Pile to Proof



Systematic approach for transforming raw evidence (the "Pile") into organized, indexed, and summarized knowledge (the "Solution")





Creating the Defensible Record

Ensuring all evidence is managed and
preserved to withstand legal challenge





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Tailoring Deliverables

Producing a Summary Memo (Level 2) instead of a Full Expert Report (Level 4) when a case is likely to settle early





The Subrogation Calculus in Negotiation

Using a data-driven ROI
framework to set firm
settlement targets



Managing Reputational Risk

Understanding how your firm's willingness to invest in a case influences the defense's settlement posture



The image shows a hand holding a circular dial with the word 'RISK' in the center. The dial has three segments: 'HIGH' in red, 'MEDIUM' in yellow, and 'LOW' in green. The dial is positioned over a dark background.



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The Final Go / No-Go

Deciding to Settle,
Escalate, or Drop based
on remaining costs vs.
potential net recovery

(Referencing Trial Factors)

