



THE GRAYING OF THE CONSTRUCTION DEFECT INDUSTRY

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I hate to admit it, but my hair is grayer now than when the photograph here was taken two years ago. But I am thankful that my hair is still there. At least some of the graying process is due to having been in the Construction Defect industry since the 1980s.

As we all know, the Construction Defect industry began in Southern California, spread quickly across the state and now is a worldwide phenomenon.* Many claims professionals, risk managers, judges, mediators, attorneys and consultants have dedicated their careers to this line of work. Whether the claim involves a production tract home, a multi-use midrise, a commercial tower, or a customized mansion, the legal theories tend to be the same from one jurisdiction to another. Over the years, this consistency has allowed the industry to become very collegial as we interact with the same people repeatedly, even if located in different venues and analyzing different fact patterns.

Such experiences affect our professional reputation within the industry for better or for worse. How we handle a particular claim can create indelible memories – whether positive or negative – which last for years. People will remember how someone's credibility was enhanced or diminished by their handling of a particular claim as they prepare to interact with the same person on a new claim. Many negotiations are handled with handshakes within this industry, and our word becomes our bond, perhaps more so than in any other legal practice area.

However, with time also comes change and an increasing number of people with decades of experience in the Construction Defect industry are retiring or moving to other lines of work. Some younger folks are entering the field, which is encouraging. But some of them struggle with the often imprecise damage calculations, or else find it difficult to understand construction practices, often resulting in them leaving Construction Defect altogether. As a result of that turnover, as well as reductions in training budgets, the more seasoned members of the industry are not always very eager to show younger folks the intricacies involved in Construction Defect litigation. Thus, there is a growing gap in the ranks of those who will handle these claims in the future.

Because we are professionals and we take our work seriously, we need to find ways to train the younger folks in those intangible parts of our respective jobs which we do so well. Accurate case evaluation, effective negotiating strategies, and meaningful connections with peers are not subjects which can be learned from reading a manual. They come after many trials and experiences, hence we can best impart them by being reliable role models for those who are entering the field.

CAVEAT: THE FOREGOING DOES NOT CONSTITUTE LEGAL ADVICE. PLEASE CONSULT AN ATTORNEY FOR INDIVIDUAL ADVICE REGARDING INDIVIDUAL SITUATIONS.

* The West Coast Casualty Construction Defect Seminar held every May in Anaheim, California, is the largest of its kind in the world. Last year, approximately 1,600 attendances came from over 35 U.S. states, the United Kingdom and North Africa.