

BURDMAN & WARD

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Law in Hand

THE ROLE OF FORENSIC EXPERTS IN CONSTRUCTION DEFECT CLAIMS

Whether in a lawsuit or in negotiations with a builder regarding construction defects issues, you need an expert. Experts are necessary to investigate, analyze and quantify the legal claim. These experts are forensic in nature, meaning that they analyze the existing construction, and in particular, trace damage to the root cause, which is typically a construction defect. Experts bridge the gap between the construction damage and the legal cause. This is a critical link in establishing the homeowners' right to repair or recovery.

In more practical terms, the type of expert has to fit the type of damage, and the probable type of construction defect. Below are the predominant types of experts:

Architect: Addresses water intrusion claims, including roof leaks, window leaks, and deck leaks. An architect can also be used for all claims when the claims are small. On the other hand, where there are many units or residences and a particular defect is pervasive, a particular architectural expert may be advisable. For example, a roofing expert, where roofing issues are prevalent. Oftentimes, based on his preliminary investigation, the architect will point out the need to retain additional experts, such as a structural engineer.

Structural Engineer: Addresses structural issues, which typically manifest in cracking stucco, separations at drywall seams, corner cracks at doors and windows, and racking or twisting at exposed framing members.

Geotechnical Engineer: A geologist studies soils formations, which a geotechnical engineer analyzes and determines the appropriate measures to provide stability to construction placed on potentially unstable geologic features. When a homeowner has a slab or stemwall cracks, differential settlement of the home or building, expansion cracks in concrete, sinkholes, or other problems related to soils, a geotechnical engineer is necessary.

Certified Industrial Hygienist (aka “CIH”): If there is mold or if water intrusion has existed for more than 24 hours in any portion of the construction, either a CIH or a certified remediation contractor should be consulted. The science is not yet conclusive as to whether residential mold causes health problems, but there are plenty of homeowners convinced that they are sick from mold. Every homeowners’ association should have a mold protocol.

Mechanical Engineer: This is an expert brought in to examine heating, ventilation, and air conditioning issues (commonly abbreviated as “HVAC”), and plumbing problems. This expert is typically necessary where there are plumbing leaks, or where the heaters or air conditioning did not work properly.

Cost Estimator: The key measure of damages in construction defect claims is the cost to repair the issues. For this reason, a cost estimator, usually a general contractor with experience in assigning cost values to repair plans, will be retained to provide a monetary value to the repairs proposed by the other experts. Preferably, the estimator will have experience in the local jurisdiction to ensure consistency with pricing.

Experts are necessary to investigate, analyze and quantify the legal claim. If you have a construction defect claim, make sure you have the appropriate experts.

If you think you have potential construction defects, contact Burdman & Ward for a free, no obligation inspection with a licensed contractor.

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