



## WEST COAST CASUALTY PRESENTATION

### **Need for Information:**

There is a good reason to get the contracts and list of inclusions and exclusions for the subcontractors as well as a Scope of Work, if one exists, and early in the process. Site inspections without basic information and plans can lead to missed observations. Site inspections should be kept to a minimum. Attendance at plaintiff testing should be mandatory.

### **Examples of Information needed:**

#### Self-performed work by the general contractor

- Did the general hire carpenters or others to do items such as tractor work...?
- Did the general purchase materials that were installed by a sub? (lumber)
- Did the general hire workers to do pre rock? (fire walls, draft stopping)

#### Different custom and practice from one job to another

- Framer installed windows
- GC is the framer
- GC siding installation -----
- Drywaller is stucco contractor

#### Different custom and practice from one area to another (So Cal; Nor Cal)

- Condensate lines by HVAC? or plumber?
- HVAC contractor supply sheet metal/gutters?

## **Documents Needed**

### **Plans**

- Stamped approved
- Revisions/addendums

### **Specifications**

- Set of specs
- Are the specs on the plans?

### **Contract Documents**

Signed copies of the agreements  
Bids, if part of the agreement  
Change orders/RFIs  
Daily logs/construction photos

### **Building Department Documents**

Permit  
Signed job cards  
Correction notices

### **Plaintiff Data**

Defect list (specific)  
Repairs accomplished/what/costs (temporary/permanent)  
Photographic evidence

### **THE INVESTIGATION PROCESS**

1. Receive construction data and analyze before site visits
2. Site visits w/plaintiff expert to explain claims (invite participant experts)
3. Meeting w/subs and other participants to iron out details; get input
4. Develop common repair scope
5. Develop cost of repair from the scope of repair
6. Compare cost of repair with plaintiff's cost of repair
7. Send allocation amounts to subs, other participants and insurers
8. Feedback from subs and other participants regarding allocations
9. Edit and publish to plaintiff (Total only; no sub breakdown)

### **Qualifications of the GC Neutral**

1. Properly licensed
2. Experienced in the actual work
3. Experienced in litigation and mediation
4. Proven ability to work with the parties
5. Not an advocate

For this process to work, the GC or estimating expert must have the background and experience that directly relates to the case. Commercial contractors are not very good at determining custom and practice, or standard of care, for track home builders for example, and vice versa.

It is mandatory for the GC to be experienced in the mediation process and the negotiations that go on between the parties. It will be important to handle the data generated properly due to mediation protections as well as the amount of scrutiny by others.

**General:**

I haven't seen many differing views of how to handle the overall process. We experts have always needed the basic information to assess the claims made by plaintiff or defense. Obtaining clear data and being able to observe the conditions alleged are the cornerstone of our investigation

We see varying amounts of cooperation between the parties, often based on the position the different attorneys take for their client. Everything from no cooperation or communication with other experts to allowing experts to work out the details. Some special masters or mediators direct or suggest various meetings among the experts without the attorneys present to work scope and cost details.

END