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RISING PREMIUMS

Construction Defect Litigation on the Rise

CONSTRUCTION DEFECT lawsuits, a constant presence in the building industry, are on the rise, and legal observers expect the trend to continue over the next few years.

There are several factors driving the increase, including a continuing construction industry labor shortage, contractors working on tight schedules to rebuild properties in areas devastated by natural disasters and growing high-dollar court judgments.

Since insurance coverage for construction defect claims is not iron-clad, it's important for construction firms, contractors, architects, engineers and even material suppliers to understand the drivers behind this trend and how to protect their financial interests.

Why defect claims are increasing

Skilled labor shortage – The construction industry has faced a sustained shortage of skilled workers for more than a decade, with recent estimates showing a gap of roughly 500,000 workers nationwide. According to Seyfarth Shaw's <i>2025 Commercial Litigation Outlook</i>, 30% to 40% of the construction workforce is made up of immigrants, and a significant portion is undocumented. Immigration policy shifts and the long-term difficulty in attracting new workers to the trades have kept the talent pipeline thin.

A smaller labor pool increases the likelihood of errors, substandard workmanship and oversights that later become the basis for defect claims.

Urgency in post-disaster rebuilding – Natural disasters such as hurricanes and wildfires are another factor driving defect risk. Rebuilding efforts after disasters have sometimes involved loosening or waiving certain permit and inspection requirements to speed up construction.

These measures can increase the risk of workmanship or design issues that later surface as legal disputes.

More complex and higher-value projects – In many markets, builders are taking on increasingly complex projects, from high-end custom homes valued at tens of millions to major medical facilities and infrastructure projects.

Larger budgets and intricate designs often mean more stakeholders, more specialized materials and more potential points of failure.

Litigation dynamics and 'nuclear verdicts' – Plaintiff attorneys are increasingly filing defect claims as close as possible to the statute of limitations, typically up to 10 years after project completion.

At the same time, the growing number of multi-million-dollar verdicts is pushing jury awards higher, particularly when property damage or perceived negligence is involved. This trend is making construction defect cases more attractive to plaintiffs' firms.

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COMMERCIAL PROPERTY

Multi-Unit Facilities Get Better Deal from FAIR Plan

THE FAIR PLAN on July 25, 2025, started offering a new “high-value” commercial property coverage option for larger housing developments, farms and businesses with multiple buildings at one location.

The new limits are up to \$20 million per building, with a total maximum of \$100 million per location – up from the previous limit of \$20 million per location. These coverage limits are available to all eligible applicants for both new and renewal policies.

Buildings the FAIR Plan covers

Habitational buildings – Buildings with five or more habitational units, such as apartment buildings, hotels or motels.

Retail establishments – Shops such as boutiques, salons, bakeries and convenience stores.

Manufacturing – Companies that manufacture most types of products.

Office buildings – Offices for professionals such as design firms, doctors, lawyers, architects, consultants or other office-based functions.

Buildings under construction – Residential and commercial buildings under construction from the ground up.

Farms and wineries – Basic property insurance for commercial farms, wineries and ranches, not including coverage for crops and livestock.

Why the increase

The decision comes as commercial property rates continue rising due to inflationary pressures, particularly for companies in areas considered urban-wildland interfaces.

Rebuilding costs have also risen substantially over the past five years, making the old FAIR Plan limits inadequate.

FAIR Plan limitations

The FAIR Plan is taking on more policyholders as more insurers pull back from the California market. Under state law, if a business can't find an insurer that is licensed in California, the first option is to go to the “non-admitted” market, which consists of insurers not licensed in the state but often backed by established insurers like Lloyd's of London.

If there are no takers in this market, the last resort is the FAIR Plan. However, costly FAIR Plan policies are not a complete replacement for a commercial property insurance policy. Policies only provide coverage for damage caused by the specific causes of loss listed in the policy: fire, lightning and internal explosion.

Optional coverages are available at an additional cost, such as for vandalism and malicious mischief. ❖

**Have questions about FAIR Plan policies?
Contact your Acisure Representative**



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No Single Policy Specifically Covers Construction Defects

The insurance gap

There is no single insurance policy that specifically covers construction defects. While certain policies may respond to related losses, coverage is often limited and dependent on the circumstances:

- **Commercial general liability** – May provide coverage if the defect results in property damage or bodily injury, often through the products-completed operations portion of the policy.
- **Builder's risk** – Protects a project during construction but generally doesn't respond after completion unless the defect arises and is addressed before handover.
- **Professional liability** – Covers architects, engineers, and design professionals for claims stemming from design errors or professional negligence.

Many defects, especially those related solely to poor workmanship without resulting property damage, may fall outside these policies. ❖

What you can do

Tighten quality control – Implement formal inspection and sign-off processes at every stage of construction.

Vet subcontractors thoroughly – Require proof of adequate insurance and consider naming subs as additional insureds.

Document everything – Maintain detailed records of design changes, materials used, inspections, and client approvals.

Review insurance programs – Work with us to identify gaps in coverage, confirm policy terms and explore endorsements or additional limits where possible.

GROWING RISK

Supply Chains Volatility Threatens Businesses

AS THE Trump administration returns to aggressive tariff strategies, business owners across the country are once again bracing for impact. On-again, off-again tariffs aimed at key trade partners like China, Mexico and Canada have created a volatile environment where forecasting costs, securing materials and delivering products on time are increasingly difficult.

The unpredictability of these policies is creating ripple effects through global supply chains, threatening many businesses' margins, operational stability and customer relationships.

Recent data show that U.S. companies have already lost more than \$34 billion due to tariffs, whether from direct duties, lost sales or increased costs. Even businesses that don't import directly from affected countries may face indirect impacts if their suppliers do.

A survey by Arthur J. Gallagher & Co. found that 90% of business owners are concerned about the effect tariffs are having on their operations — particularly in the form of:

- Supply chain disruptions due to changing routes and sourcing complications,
- Surging input costs that are difficult to pass on to customers,
- Manufacturing slowdowns driven by raw material delays or pricing volatility,
- Inventory hoarding to front-run new tariffs, which ties up working capital, and
- Dampened investment as companies adopt a wait-and-see approach.

Large multinational corporations may have the resources to weather tariff swings, such as rerouting orders, renegotiating contracts and leveraging deep supplier networks. But for smaller businesses, limited buying power, narrower margins and lean supply chains mean there's far less wiggle room.

Owners in industries like electronics, automotive parts, construction materials and apparel are especially exposed. Many of these businesses rely on components or raw materials from Asia, where even slight delays or cost increases can disrupt production and reduce profitability.

What businesses can do

- **Audit your supply chain** – Identify all products and components exposed to tariffs (directly or through suppliers) and calculate the potential financial impact.
- **Diversify sourcing** – Spread risk across multiple suppliers and consider partners in countries not subject to tariffs or have lower tariffs than those imposed on Chinese goods. Where possible, increase domestic sourcing.
- **Negotiate flexibly** – Work with suppliers to explore cost-sharing options, volume-based discounts or adjusted contract terms to accommodate sudden tariff hikes.
- **Use technology** – Invest in supply chain and inventory management tools that help you track lead times, monitor pricing trends and adjust sourcing strategies in real time.
- **Stay informed** – Tariff regulations often appear in the Federal Register or through U.S. Customs announcements. Stay on top of updates and take part in comment periods to voice concerns before rules are finalized.

Supply chain insurance

Many business owners wonder if supply chain disruption insurance could cover losses tied to tariffs. The answer is nuanced.

Property policies typically cover business interruption losses that result from physical interruptions — like natural disasters, factory fires or transportation breakdowns — that prevent a supplier from delivering goods. However, they usually do not cover economic disruptions, such as those caused by tariffs, trade sanctions or changes in government policy.

That said, some insurers are developing specialty coverage or endorsements that address trade disruption or political risk. However, these policies tend to be more common in large-scale international trade and are priced accordingly. ❖



CONSTRUCTION RISKS

Eight Tips for Improving Electrical Safety

THE CONSTRUCTION industry has the highest percentage of electrical fatalities out of all industries.

While electricity is a crucial component in a construction project's success, it poses a risk of harmful shock, horrific burns or fatal electrocution. These accidents can occur when workers come into contact with power lines, wiring, transformers or other electrical machinery.

Fortunately, there are steps that companies can take to minimize the dangers. The following are eight tips on how to improve electrical safety in the construction industry:

Provide protective equipment – Electrical safety starts at a personal level. All electrical work personnel or people working in an area with electrical materials should wear protective gear, such as insulated gloves and footwear.

This provides basic safety if they come into contact with electrical equipment, whether accidentally or intentionally.

Train them in handling electrical equipment – Electrical mishaps can occur when there is misuse or mishandling of electrical equipment.

Workers should be trained on how to handle and operate the equipment safely. Conduct regular training to ensure your workers don't become lax when they use the same equipment.

Use proper testing equipment – Proper testing equipment should be among the essential tools on a construction site.

Voltage detectors, receptacle testers and clamp meters are among the tools every worksite should have to enhance electrical safety and help prevent electrical accidents.

Install the right signage – Lack of awareness can lead to catastrophic electrical accidents. All electrical hazards should be marked to warn your workers of the dangers.

The signs should have labels in language and illustrations that can be easily understood by a layman.

Conduct a risk assessment – Conduct a risk assessment survey of the worksite before operations begin. This will help identify hazards that can compromise electrical

safety and allow you to come up with solutions accordingly.

The assessment will also help your team develop a plan on how to lay out electrical infrastructure with safety in mind. The plan should indicate where and how electrical equipment will be placed and how the wiring will be done.

Use circuit breakers and voltage regulators – Emergencies can occur in case of a power surge, short-circuit or other electrical issue. That's why it's essential to have circuit breakers and voltage regulators to cut off power during such situations.

The ability to regulate or shut down power supply on time during a crisis can avert catastrophic damage.

Avoid wet conditions – Electrical equipment and infrastructures in the worksite should be shielded from coming into contact with water at all costs.

This should be done during the planning process. When the equipment comes into contact with water, shut off the power supply immediately. It should be turned back on under a professional electrician's recommendation.

Organize and insulate all exposed cables – A construction area should never have messy or uncovered power cables. When unorganized, the cables can contact each other, resulting in short-circuiting and possibly fire.

If left uncovered, workers may accidentally touch them, leading to shock or electrocution.

Cover all cables in a construction site with insulating material and organize the cables to enhance electrical safety.

The takeaway

While overall safety is a significant concern in the construction industry, electrical dangers can be contained if the right measures are implemented.

The above tips can help construction firms to boost electrical safety in their operations. However, all the parties on a construction site must be diligent for maximum electrical safety. ❖

