



Construction Imaging & Archiving
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Ending Construction Defect Litigation by David Blackburn

When is construction defect litigation (CDL) going to stop? Many well respected underwriters, developers, contractors, and virtually everyone in the construction industry are asking the same question.

The answer is *always* the same. Construction defect litigation will stop when it can be demonstrated by a third party that the construction was performed correctly in the first place.

Over a year ago in this publication, an article written by Don Neff explored the need for a comprehensive litigation risk management strategy that addresses a project's needs at pre-construction, during construction and at post-construction, involving multiple facets of the developer's organization. Here we are a year later, and the key players are still seeking out strategies they can embrace which are believed to prevent litigation and save costs.

Out of the fear of litigation on my own developments and sheer frustration at the lack of progress in successfully swimming against this litigious tide that threatens to drown the construction industry, I established Construction Imaging & Archiving (CIA). CIA aims to greatly improve construction quality and efficiency in construction projects while reducing exposure to liability.

How does it work? CIA photographically documents construction projects as they are built. As images are captured, CIA technicians use CIA's patented software to identify different attributes of the photograph (i.e., trades, location, time, date etc.). The images are then uploaded to a secured project website where CIA's clients may view and search images by their associated attributes. Clients have the ability to quickly view photos for a single trade in a single unit on a single wall during a certain time if they wish to be so specific.

When a client or CIA technician notices a problem, they are able to send the image along with any explanation to the responsible party. The issue is then tracked until completion and schedule impacts are assessed.

By allowing jobsite conditions to be viewed and communicated by our clients and their specified parties, the amount of "eyes" monitoring a job increases substantially. CIA's methods reduce the risk of construction defect issues that are often left unnoticed, uncorrected, or are covered up. Issues left undetected almost always lead to CDL and end up costing the developer substantially more than doing it right the first time.

Creating CIA's technology and writing the software was an enormous investment of time, talent, and money which until now seemed cost prohibitive. But with construction defect litigation adding an average of \$23,000 per unit on all multifamily residential projects of 20 units or more, the industry has finally reached its tipping point.

Most wrap insurance policies currently have a clause that allows for as much as a 20% discount when the developer uses approved risk management methods such as CIA's services to mitigate CDL. Rather than the traditional reactive approach to risk management, (common to the average insurance policy), services like CIA provide a proactive model, mitigating the threat of litigation while also preventing developers from having to meet separate deductibles for each and every occurrence and preventing most occurrences altogether.

Since its inception, CIA's imaging procedures have already successfully mitigated exposure to future construction defect litigation costs that would have exceeded 15% of the retail value of a \$39 million construction project (\$5.85 million).

Overall, CIA's system promotes all parties on the project to do the right thing because they are aware that their work is being photographed and viewed by many people. After the project is complete this superior level of quality, communication, and accountability demonstrated within the images and correspondence will be archived and stand ready to defend against the threat of litigation without destructive testing or racking up settlement fees.

CIA's risk management system can and will substantially lower the cost of construction. Builders, developers, wrap insurance companies, and other involved parties will be able to gain an advantage over their competition by offering a higher quality product at a lower price to their consumers.

The time is *now* for everyone in construction to get serious about exploring the benefits of adopting a proactive risk management strategy. Those who implement such programs are seeing significant cost savings and are successfully reducing or even eliminating CDL. They are improving the quality and profitability of their projects and increasing buyer satisfaction. Projects should no longer result in CDL or costly insurance claims, but in a product everyone can be proud of.

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