



# NATIONAL CONSTRUCTION DEFECT CONFERENCE



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## Beyond Tract Homes: Navigating Complex New Construction Claims



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# The Changing CD Landscape...

## Litigating the Mega Single-Family Home Case





# **Litigating the Mega Single Family Home Case:**

**-From Tender**

**-To Resolution**



**Tenders**

**Evaluation of  
coverage, and**

**Reservations of  
Rights**

# SIZE MATTERS!



# Small houses, small problems. BIG houses, BIG problems.



- ▷ **Econ 101: Everything is going to cost a lot of money**
  - More square feet, more money
  - More high-end finishes, more money
  - More custom work, more money
  - More millwork, more money
  - More delicate and expensive areas to protect, more money
- ▷ **Relocation - a LOT more money**
  - Comparable monthly rental expenses as much as 10 times as much as “regular” homes
  - Duration of time to make repairs longer due to extra care needed
  - Moving and Storage of expensive artwork and furnishings can be exorbitant

# HOMEOWNERS' CONSTRUCTION DEFECT "TEAM"



## ▷ "ATTORNEYS"

- ▷ WE DON'T NEED NO CASE MANAGEMENT ORDER
- ▷ WE DON'T NEED NO MEDIATOR
- ▷ WE DON'T NEED NO STINKIN' DEFECT LIST OR COST OF REPAIR
- ▷ WE GOT OURSELVES A REPAIR CONTRACTOR!

## ▷ "EXPERTS"

- ▷ WATCH OUT FOR THE EXPERT GONE ROGUE
- ▷ DOES THE REPAIR CONTRACTOR HAVE ANY CLUE?
- ▷ OUT OF POCKET REPAIRS VS PIE IN THE SKY COST TO REPAIR



The Repair “Expert”  
v.  
The Forensic Expert



# Loss of Use

Insurance Carrier and  
Defense Counsel Sticker  
Shock!



# MAKING THE "BETTERMENT" ANALYSIS

BEFORE-----



AFTER ----



# Mediating The Mega Mansion – Unique Challenges





# The Wealthy Are Different!





# It's personal baby!

- ▶ These are not business disputes.
- ▶ These houses are labors of love.
- ▶ Owners of these homes expect perfection in every detail.
- ▶ Owners of these homes are used to being in control and get upset when they have no control.
- ▶ Frequently Owners can afford to make repairs---it becomes a “money spent” case---hard to defend and settle
- ▶ Rarely do attorneys and others working for these Owners speak “truth to power.”

# TRIAL





**Jury Trial v. Bench Trial v. Arbitration**

**Pre-Trial Motions**

**Jury Sympathy or *NOT!***

**Homeowner as Witness**

**Trial Openings and Closings**