

Perrin Conferences National Construction Defect Conference



Emerging Issues in CD Litigation

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Emerging Issues in Defect Litigation

Meet Our Panelist

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Before We Start.....

- ▶ **The material presented and discussion points in this presentation is not to be construed as or assumed to be the opinions or positions of the companies with which the panel members are affiliated. No legal or claims handling advice is intended to be relied upon by the audience.**



Trends Impacting Defect Issues in 2024 and Beyond

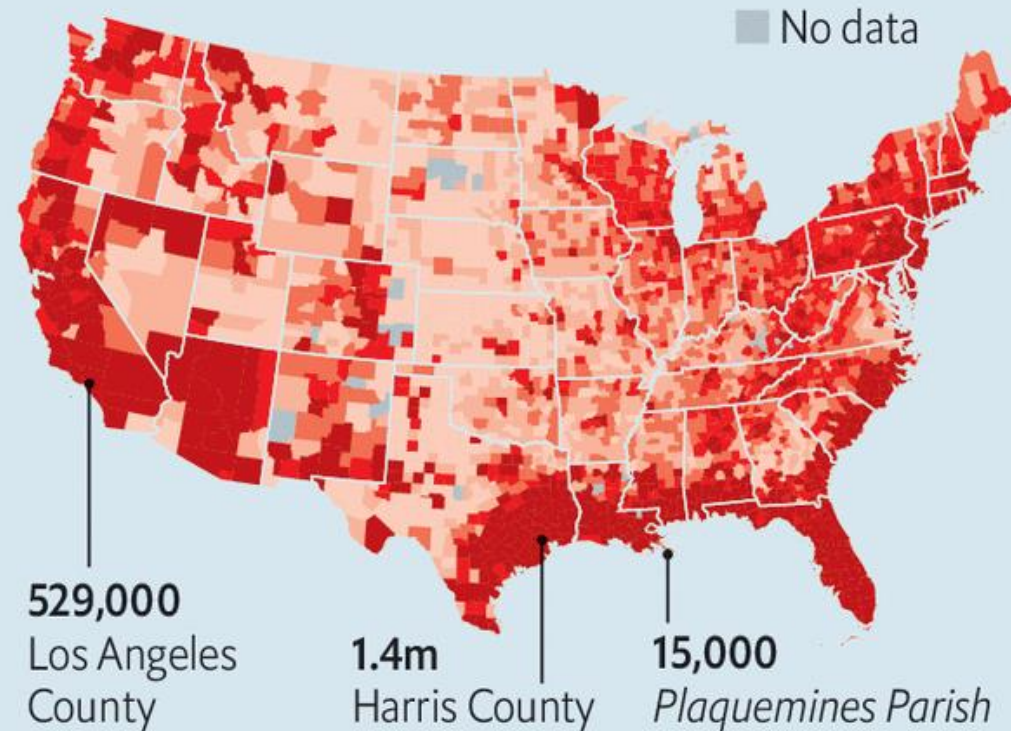
Climate Change; Impact on Defect Claims

- ▶ Hurricanes, Flooding and Wildfires
- ▶ Replacement Costs

Noah's premium

US, risk of an insurance correction due to fire, flood or wind*, by county, 2023 estimate

Number of properties | 0 | 500 | 1,500 | 3,000 | 9,000



Source: First Street Foundation

*Premium increase or coverage reduction

Intersection of Climate Change and Social Inflation

▶ Insurer Market Hit

- *Withdrawal*
- *Retention Points*
- *Higher Premium*

▶ 2024 Impact

- *Defect Claims*
- *Theories of Liability Expand*



Hot Issues and Hot Venues

- ▶ Roofs
 - Drivers of Future Defect Claims
 - Frequency
 - Severity



Hot Issues and Hot Venues

- ▶ Solar / Renewable
 - After Market
 - Representations form Liability



Hot Issues and Hot Venues

- ▶ Window Claims
 - Future Claim Drivers
 - Common Claim Types
 - Key Coverage Issues



Hot Issues and Hot Venues

- ▶ Stucco Claims
 - Florida and Texas
 - Single Family Home Claims
 - Primary Exhaustion Issues
 - Number of Occurrences?



Modular Construction Becomes Focus

- ▶ Emerging Issues
 - Design Professionals
 - Assembly / Penetrations
 - Transportation
 - Legal Standards
 - Theories of Liability
 - Strict Liability
 - Statutes of Repose



Modular Construction Future Battles

- ▷ Coverage Battles
- ▷ Wrap Trap
 - Application to Off-Site Operations
 - Potential Gaps for Offsite Issues
- ▷ Risk Transfer
 - Aggressive Consideration of Risk Fabric



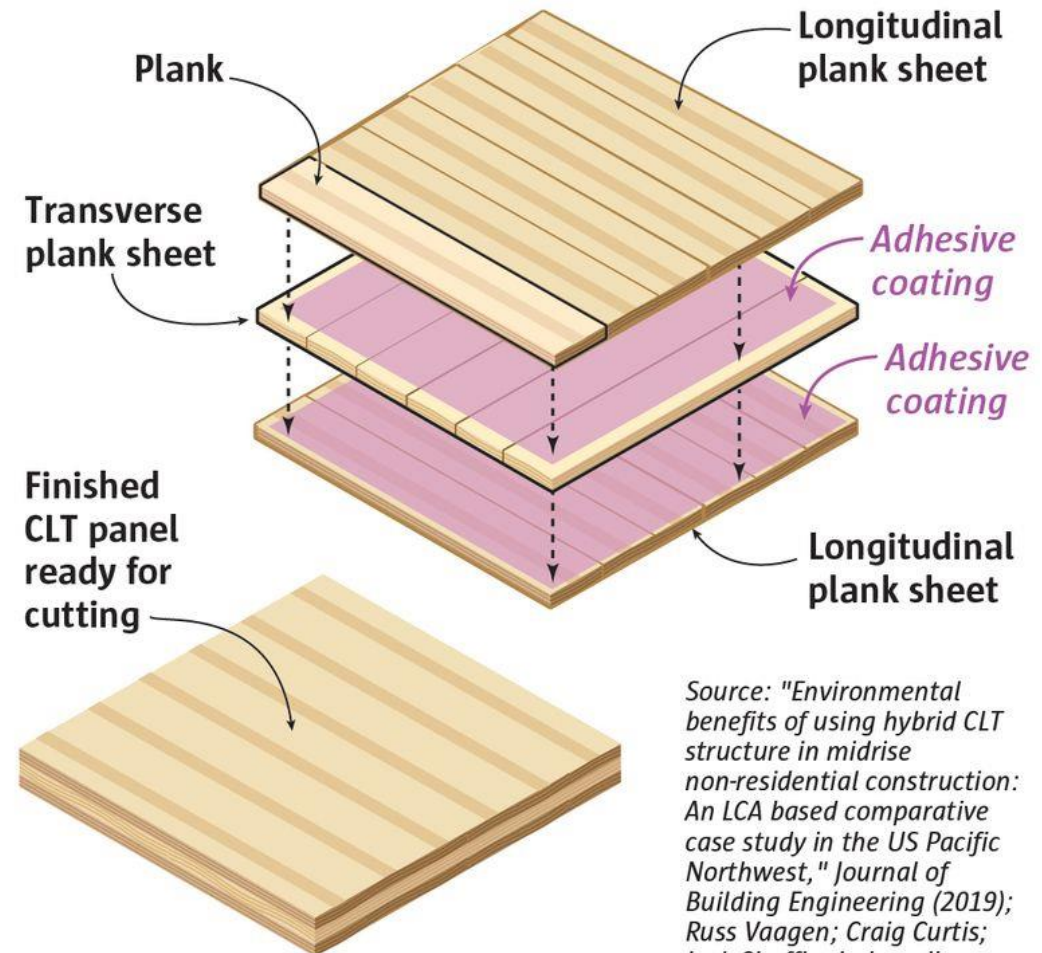
Cross Laminated Timber

- ▶ Popularity of CLT
- ▶ Defect Battles Ahead?
- ▶ Unresolved Coverage Issues
 - Fire Combustibility Exclusions
 - Design v. Manufacturing
 - Transportation



Manufacturing cross-laminated timber (CLT) panels

Sheets of wood planks are laid crosswise over each other, bound together with adhesive and subjected to pressure or high-frequency waves. A computer cuts the huge resulting panels to size – including openings for doors, windows and wiring – with a minimum of wasted wood.



Source: "Environmental benefits of using hybrid CLT structure in midrise non-residential construction: An LCA based comparative case study in the US Pacific Northwest," *Journal of Building Engineering* (2019); Russ Vaagen; Craig Curtis; Jack Chaffin; Indroneil Ganguly; Environmental Protection Agency.

Reporting by KATHERINE KHASHIMOVA LONG,
Graphic by MARK NOWLIN / THE SEATTLE TIMES

Technological Advances: Perils and Pitfalls

- ▶ Artificial Intelligence
 - Perils/Pitfalls
 - Document Review
 - Trial Use
- ▶ Wearables
 - Real Time Data
 - Huge in Catastrophic Injury Claims
- ▶ Renewable Energy Sources



Emerging Trend: Litigation Funding

