



## **Homeowner-Plaintiff Construction Deficiencies Case Study**

### ***Expert Witness, Forensic Testing, Design and Project Management Services provided by MFC***

MFC was contacted in 1998 by owners of a Carmel Valley, hillside residence. They had been working with their original builder for 9 years to resolve a deck leak.

A wood-framed balcony, waterproofed with paint-on coating and metal flashings, finished with concrete, and enclosed by wood-framed, stuccoed railing-walls, leaked every winter into a bedroom beneath it. The builder had diligently returned each spring to try a new repair on the deck, including having removed the concrete topping, and having re-coated the waterproofing in its entirety.

After nine years, the contractor advised the homeowners that he didn't know how to fix the leaking deck and that they should find someone who could diagnose the water source and suggest a repair.

MFC's initial site inspection was only about this problematic deck, but as MFC walked the property other construction and design problems were observed. A series of MFC site inspections and a series of conversations with the homeowners and their attorney led to the unhappy decision that the problems were too numerous and too serious for the homeowners themselves to make repairs at their own expense.

When first contacting MFC, these homeowners had not realized that their 9-year old home had defects including, but not limited to foundation drainage problems, structural steel design deficiencies, an inadequate heating system, leaking skylights, rotted wood framing beneath their concrete-topped decks and balconies and inside the stuccoed walls lining their decks, pool and spa patios, inadequate foundation ventilation, severe erosion developing beneath their hillside, concrete driveway, non-existent window flashing, leaking custom window units, and rotting, below-grade, untreated plywood and lumber in their foundation cripple walls.

MFC wrote a lengthy, detailed report spelling out our findings, our recommended repairs and our estimated costs for said repairs. We attached building plans, site photographs, unit costs and unit counts, diagrams, architectural details for complicated repairs, and original construction documentation and photographs. We coordinated and incorporated the work of consulting geotechnical, mechanical, and structural engineers, a heating system consultant, and a Title 24/energy consultant. A leaky deck problem ultimately led to a claim of Damages totaling \$2,480,166.40

involving the work products of the Architect, General Contractor, and several subcontractors and material suppliers.

Negotiations with the defending insurance companies began mid-1999 and ended in late 2000 with a mediated settlement agreement.

Defense Experts inspected the property several times between April 1999 and May 2000. Multiple joint expert meetings and settlement conferences were held between July 2000 and November 2000.

At each meeting, through careful questioning of the Defense's scope assumptions and cost estimate particulars, MFC's work resulted in Defense repair allowance increases. The Defense's repair cost estimate began at \$980,615.57 and ended at \$1,338,630.00.

The global settlement achieved without going to trial was \$2,200,000.00. This money made it to the homeowners in early 2001. They had incurred out of pocket expenses of \$600,000.00 in order to win a \$2,200,000.00 settlement award.

With repair funding in hand, the homeowners retained MFC to put our repair scope out for competitive bid and to provide quality control during actual repairs. Repairs began in August, 2001, and ended mid-2002.

The homeowners sent an email to MFC in January 2003, celebrating their first winter being dry and warm at home since they moved into their dream house in 1989.