



# MFC NEWS

## *“Building Understanding”*

MFC will find out the truth about buildings and answer the hard questions.

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### What’s New at MFC...

**M**yles Corcoran and Daniel Alcocer presented “Construction Defects: Determining Cause and Liability” to NARI-Monterey 7/9/14.

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Micah Rodler attended The Educational Community for Homeowners (ECHO) chapter meeting 7/9/14. He will be the speaker at the upcoming 9/8/14 chapter meeting!

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Micah Rodler also participated in the NARI-SV B2B Expo 7/16/14.

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Daniel Alcocer decided to return to the field of Construction Management taking a job with a new company in San Jose. His last day with MFC was 8/15/14; he will be missed. We wish him the best of luck.

### Tip of the Day

Did you know that inside a typical household, more water is used for flushing toilets than for any other purpose?

Conserve water during the drought by replacing 3.5G - 1.6G toilets. Most cities, counties and the state have rebate programs of up to \$50.00-250.00 back.



### Wisdom Corner

**LEGALLY SPEAKING:  
What Do You Think Causes  
Construction Claims & Disputes?  
Think Again  
By Matthew DeVries**

**C**onstruction is one of the riskiest businesses in the United States. It requires the coordination of many entities, which is one reason alone there are many disputes. What do you think causes construction claims and disputes?

In this tight economy, the competitive bidding system forces contractors to price their work in a way that will give them the best opportunity to be the low bidder. Sometimes, too much attention is placed on getting the work and not enough attention is given to how the work can be done profitably.

In addition, the construction process typically involves parties from different disciplines temporarily joining together to deliver a construction project. Each party’s responsibility within the construction process is intertwined with others, either as a prerequisite for another party’s work or as an integral part of such work.

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When one of the parties in the construction process fails, the others are adversely affected. When a problem faced by one party in the construction process is ignored or recognized late, the problem may escalate into disputes and claims. Disputes and claims are detrimental to all parties.

A prerequisite to recognizing and remedying problems on the construction project is understanding their causes. Although an association focused on the horizontal construction, the National Cooperative Highway Research Program has identified practices and characteristics of contractors and owners that are associated with the high incidence of claims, including the following:

**Contractor Practices**

- Inadequate investigation before bidding.
- Unbalanced bidding.
- Bidding below costs and over-optimism.
- Poor planning and use of wrong equipment.
- Failure to follow authorized procedures.

**Owner Practices**

- Changes in plans and specifications during construction.
- Inadequate bid information.
- Inadequate time for bid preparation.
- Excessively narrow interpretation of plans and specifications.
- Restrictive specifications.
- Contract requirements for socioeconomic objectives.

**Causes Associated with the Contract Documents**

- Exculpatory clauses.
- Mandatory advance notice of claims.
- Finality of field engineer's decisions.
- Changed Conditions clauses.
- Lack of periodic review of documents.

**Causes Associated with Contract Awards**

- Diversity of state contract award rules.
- Treatment of bid mistakes.

**Causes Associated with Contract Administration**

- Coordination of owner responsibilities.
- Interpretation of owner policy and practices.
- Attitude and style of contract administrators.
- Documentation of contract performance in field records.
- Owner program factors.

**Causes Associated with Claim Settlement Procedures and Practices**

- Encouragement of project-level settlements.
- Delegation of settlement authority to field supervisors.
- Effectiveness of field/headquarters consultation.

When you are reviewing your risk management procedures on current and future projects, you should review these lists to determine those areas where you may need to implement some best practice protocols.

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For example, if you perform a significant amount of public work, then you will want to pay close attention to diversity requirements and bid mistakes. In the end, understanding the source of construction disputes will help you avoid many of them in the future.

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### **Quote of the Day**

“An architect's most useful tools are an eraser at the drafting board, and a wrecking bar at the site..”

*~ Frank Lloyd Wright*

### **About MFC News**

MFC News is the e-Newsletter published quarterly by the Editorial team at: Myles F. Corcoran Construction Consulting, Inc. (MFC) located in Santa Cruz, California. It is circulated to our colleagues in the construction and construction-related fields. Visit our website [www.mfcbuild.com](http://www.mfcbuild.com) for more information and testimonials.

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