

concretehomes + low-rise construction

September/October 2018



HOBBIT HOUSE

A Concrete Home Like
No Other in New York

\$4.95



Sept./Oct. 2018

concretehomesmagazine.com

INSIDE: 3D PRINTED HOMES
FEATURED PROJECT: HOBBIT HOLLOW
LOW-RISE: TOP 5 THINGS TO DO IF YOU GET SUED
PLUS INDUSTRY NEWS • PRODUCT NEWS



TOP 5 THINGS TO DO IF YOU GET SUED

Text by **Megan Shapiro**

LET'S FACE IT; NO MATTER WHAT INDUSTRY OR BUSINESS YOU ARE IN, YOU ARE LIKELY TO GET SUED AT ONE POINT OR ANOTHER. UNFORTUNATELY FOR CONTRACTORS AND SUBCONTRACTORS, THE ODDS OF GETTING SUED CAN BE EVEN HIGHER. BEING SUED CAN BE AN UNCERTAIN AND SCARY POSITION TO BE IN, ESPECIALLY IF YOU'VE NEVER BEEN SUED BEFORE. BUT THERE ARE A FEW QUICK AND EASY STEPS YOU CAN TAKE IMMEDIATELY AFTER BEING SUED THAT CAN MAKE THE PROCESS A LITTLE MORE MANAGEABLE AND LITTLE LESS SCARY, WHETHER THIS IS YOUR FIRST TIME BEING SUED OR YOU'VE BEEN AROUND THE BLOCK A FEW TIMES.

WHY DOES A SUBCONTRACTOR GET SUED?

First things first: Why does a subcontractor get sued? There are a variety of reasons that a subcontractor can get sued (employment issues, lien rights, etc.) but by far the two most common reasons are breach of contract and construction defects. Breach of contract causes of action usually arise when the general contractor or developer with whom the subcontractor has contracted alleges that the subcontractor has breached the agreement in some way, usually having to do with timeliness of performance, materials used, labor, etc. Construction defect lawsuits arise when the owner of the project is unhappy with the final result and claims that the project was constructed in a defective way. The owner sues the general contractor or the developer for these claims, and the general contractor or developer in turn sues its subcontractors.

THE TOP FIVE THINGS TO DO IF YOU'RE BEING SUED

So now that we've set the stage for why these lawsuits happen, here are the top five things to do if you're being sued:

1. Act Immediately! Don't delay or waste time trying to figure out what to do. Make note of the date that you received the lawsuit and how you got it (this is called service). If it came in the mail, save the envelope. This is important because you only have so many days to formally respond to the lawsuit from the date that

you receive it. Your insurance broker and your attorney will need to know this date.

2. If you have a lawyer that represents the company, contact them. Many subcontractors, especially larger companies or companies who have been sued before, have an attorney that they know and trust that they go to when they get sued or have other legal issues they need help with. If you have a relationship with an attorney, contact them immediately and let them know that you have been sued, the date you received a copy of the lawsuit, how you received it, and provide them with all paperwork you have.

3. Contact your insurance broker. Whether you have an attorney or not, odds are that your company has General Liability Insurance (sometimes called a CGL policy) that may provide insurance coverage for the lawsuit. Your broker should be able to tell you whether or not there is likely coverage for this lawsuit. As an aside, if you don't have a CGL policy, you should contact a broker and discuss getting one immediately. They pay for themselves with the amount of money they will save you.

4. Tender the lawsuit to your insurance carrier. Tendering the lawsuit to your insurance carrier is giving them a copy of the lawsuit and asking them to appoint an attorney to represent you. Your broker should be able to either do the tender for you but usually will only do it once you've asked them to. Your

SUPERform
Forming a Greener Future... One Block at a Time!

www.superformicf.ca / 403-627-3555

Superform ICF blocks will give you the strongest wall available.

- Ties every 6"
- Very strong corner tie
- Cut lines every 1"
- 2 flight interlocking knobs every 1"
- Horizontal rebar every 12"

You will love the CONFIDENCE you feel when you work with Superform.

NOT ALL BLOCKS ARE CREATED EQUAL



NOT ALL BUILDINGS ARE CREATED EQUAL



The bitterness of poor quality lingers long after the sweetness of cheap price is forgotten.

Now accepting new representatives.

Hassle Free Printing
We Take Printing Seriously...Not Ourselves.



Call 210-804-0390 for Special Online Pricing

- 5,000 postcards \$149
- 10,000 flyers \$349
- 1,000 magazines \$995
(16 pages, 60# paper)

SHWEIKI MEDIA
Visit us at www.shweiki.com

CONTACT US TO SCHEDULE YOUR PLANT TOUR 210-804-0390 • EMAIL samples@shweiki.com FOR A FREE QUOTE OR CALL 313-480-0640

insurance carrier may ask you for additional information related to the project. You should provide this information as quickly as possible so that your insurance carrier can decide whether to appoint an attorney to represent you.

5. Contact an attorney in the state you are sued in. As I said above, you only have a certain amount of time to formally respond to a lawsuit and in most cases only an attorney can file a formal response for a corporation. Your insurance carrier may appoint an attorney to represent you but you should contact an attorney yourself anyway. There are many things your own attorney can do to protect you that your insurance-appointed attorney can't do and if your insurance company hasn't appointed an attorney for you yet, your attorney can make sure you are protected and can try to get you an insurance-appointed attorney. If you don't already have a relationship with an attorney you trust, you should look for an attorney who is experienced in construction litigation matters. The specific laws governing construction disputes can be quite nuanced and you want an attorney who is has experience and is familiar with litigating construction disputes. You can usually find this information on the attorney's website or you can ask when you contact them to schedule an appointment.

For additional resources to help you find an attorney who is experienced with construction litigation, you can contact your county Bar Association, your individual trade groups and organization, regional builders exchanges, etc. These types of organizations may maintain a list of "construction attorneys" that they refer their members to.

If you follow these tips, you should have a roadmap of what to do and you may be able to substantially reduce the risks to your company involved in litigation.

Yes, I am an attorney, but I'm not your attorney and this article does not create an attorney-client relationship. If you would like to discuss your situation with me directly, don't hesitate to contact me at megan@radshap.com. I am licensed to practice law in California and have based the information presented on U.S. laws. 🇺🇸



Megan Shapiro is a partner at Radoslovich|Shapiro, a full-service business law firm in Sacramento, California. Shapiro focuses on construction law and understands better than most how subcontractors are always busy. The last thing they want to worry about is legal issues. That's why she handles every aspect—from contract drafting to litigation and everything in between.

This article is legal information and does not constitute legal advice. The opinions expressed in this article are the opinions of the author only and may not reflect the opinions of the author's law firm. No representations are made as to the accuracy, completeness, or validity of any information contained in this article. You should consult with an attorney before you rely on this information.