
CONSTRUCTION LAW SERIES

INSURANCE

COVERAGE OF

CONSTRUCTION

DISPUTES

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Highlights to
Insurance Coverage of
Construction Disputes,
(Issued June 2025)

This update both restructures and streamlines Chapter 2 – Coverage Issues Raised by Various Types of Construction Related Claims, for ease of readability and to be more consistent with current events and trends. Specifically, the update includes the following:

- A new § 2:1, which summarizes case law that holds that a policyholder’s coverage should not be dependent upon the label of the claim a third-party assigns to a dispute.
- Revised section headings, to more accurately reflect the types of claims and causes of action which are typical in construction disputes, and the impact those might have on coverage.
- A shortened summary of Covid-19 claims (§ 2:63), with citation to a thorough database of court rulings concerning Covid claims and commercial property insurance.

Preface

This work aspires to be a groundbreaking contribution to the evolving practice of construction litigation, especially in the critical area of insurance coverage. Insurance coverage plays an indispensable role in resolving construction disputes; however, historically, it has not always featured prominently on the checklist of issues that construction litigators consider when preparing their cases. This understandable oversight, however, can be a costly one.

This treatise seeks to change that paradigm by providing the depth of legal research needed for construction litigators to fully leverage insurance coverage. Drawing on years of focused experience, we can affirm that insurance coverage is to construction litigation what antibiotics are to medicine: it may not resolve every problem, but its effectiveness is so pronounced that it becomes essential in most cases. In some situations, it even acts as a “miracle cure.”

Moreover, this book is not limited to the use of construction litigators. Case law often reflects gaps in understanding by insurers, coverage counsel, and courts regarding the distinct applications of insurance coverage in the construction field. We hope this volume will serve as an invaluable resource for these audiences as well, promoting deeper insights and a more effective approach to addressing insurance coverage issues within construction litigation.

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About the Authors

Scott C. Turner From 1989 to 2023, Scott C. Turner authored this publication. Scott was of counsel in the Washington, DC and San Francisco, California offices of Smith, Currie & Hancock LLP. Scott is one of the foremost attorneys nationally on the subject of insurance recovery for policyholders in the construction industry. His practice centered on insurance coverage of project owners, developers, general contractors, subcontractors of every tier, manufacturers, design professionals, and construction managers on significant commercial, residential, industrial and public works construction projects.

Beginning in 2024, Tracy Alan Saxe and Theresa A. Guertin have been co-authors.

Tracy Alan Saxe Tracy Alan Saxe is the Chair of Saxe Doernberger & Vita, P.C., a national law firm dedicated to representing policyholders in insurance coverage disputes. Tracy has handled insurance cases in numerous jurisdictions and courts and teaches and lectures nationally on insurance coverage. In his 40 years of practice, he has tried over 60 cases to judgment or verdict and successfully mediated or arbitrated many more.

Tracy is a Certified Arbitrator with the American Arbitration Association, a Certified Trial Advocacy Teacher by the National Institute of Trial Advocacy (NITA), and has taught insurance as an adjunct professor at Quinnipiac University Law School.

Theresa A. Guertin Theresa Guertin is a Partner at Saxe Doernberger & Vita, P.C. She has spent her entire career advocating on behalf of policyholders on issues involving all lines of coverage, focusing on giving her clients the most current and practical perspective of the risk management issues they encounter. Theresa has extensive experience in developing and rewriting insurance procurement language to meet the changing demands of the insurance and construction industries. She maintains a nationwide litigation practice, representing clients in claims for coverage in a diverse array of matters.



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