



IRMI[®]

Preconference Workshop 6

***CONSTRUCTION DEFECTS AND
OTHER FUN STUFF***

Presented by

Terry D. Gray
President—
Construction Business Unit
Zurich

Industry Expertise with Personalized Attention



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Terry D. Gray
President—Construction
Zurich

Mr. Gray is a panelist for Monday's Preconference Workshop 6, "What's Hot in Construction Risk Management?" He serves as president of Zurich's construction business unit, located in Minneapolis. In his role, Mr. Gray leads the construction property and casualty business, including developing strategies and achieving overall results. Mr. Gray has more than 19 years of experience in financial operations and risk management and more than 15 years in the construction industry.

Mr. Gray joined Zurich's construction unit in 1995 and has held several vital positions as part of the senior management team. Before assuming his current position, Mr. Gray served as executive vice president for the large contractor customer segment. He was also instrumental in developing and promoting Zurich's Subguard® product.

Before joining Zurich, Mr. Gray served as the risk and financial manager at Cianbro Corporation, a large general contractor. He began his career in 1985 with Ernst & Whinney (now Ernst & Young).

Mr. Gray earned his bachelor of science degree in business administration from the University of Maine. He is also a certified public accountant.

Notes

This file is set up for duplexed printing. Therefore, there are pages that are intentionally left blank. If you print this file, we suggest that you set your printer to duplex.

CONSTRUCTION DEFECTS AND OTHER FUN STUFF

Terry D. Gray
Zurich

“Construction Defect”

- Internet Search
 - November 30, 2001
 - 18,800
 - July 19, 2003
 - 107,500
 - September 2004
 - 500,000
- Why?



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What has Changed?

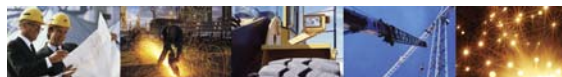
- Construction quality issues
 - Residential
 - Buildable Site
 - Concentration of Homes
 - Design
 - Construction
 - Product Failures
 - Increasing lack of skilled workforce
 - Commercial
 - Design
 - Fast-track projects
 - Product failure



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What has Changed? (continued)

- Consumer expectations
 - High quality
 - Customer Care Expectations
- Litigious Environment
 - Plaintiff bar
 - Capitalized on opportunities
 - Court Decisions
- Insurance Coverage
 - Policy language interpretation
 - Residential insurance crisis
 - Commercial impact increasing



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Who's involved?

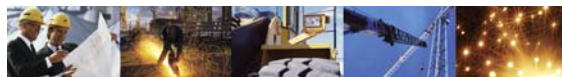
- Residential
 - General contractors
 - Sub-contractors
 - Product manufacturers
 - Developers, property owners & property managers
- Commercial
 - General contractors
 - Sub-contractors
 - Product manufacturers
 - Owners and developers
- Architects and engineers



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Most Common Alleged Defects

- Water Penetration
 - Roofs & flashing
 - Exterior Walls
 - Siding installation
 - EIFS
 - Windows & door installation
 - HVAC systems
- Soils
 - Foundation movement
 - Landscape



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Commonly Alleged Defects - EIFS

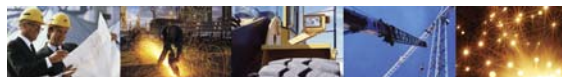
- Exterior insulating finishing systems (EIFS)
- Water penetration and retention
- Warm climates such as southern CA, FL, TX and NV
- Historically a residential problem, may become a commercial issue
 - In 1997 only 1.5% of residential contained EIFS, however 22% of commercial buildings had EIFS
- Insurance industry response
 - Residential construction insurers often exclude EIFS
 - Commercial construction insurers have not responded the same way



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Insurance Industry Response

- Insurers exiting
 - Residential contractors/subcontractors
 - Higher risk states
- Underwriting guidelines
- Pricing, terms and conditions
- Policy language
 - Create more certainty/reflect intent
 - Exclusions



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Blueprint for the Future

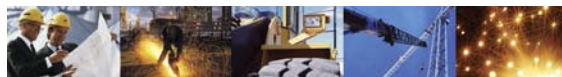
- Reduce/Eliminate uncertainty and lack of clarity in the insurance process
- Quality construction
- Documentation
- Customer care programs
- Legislative changes



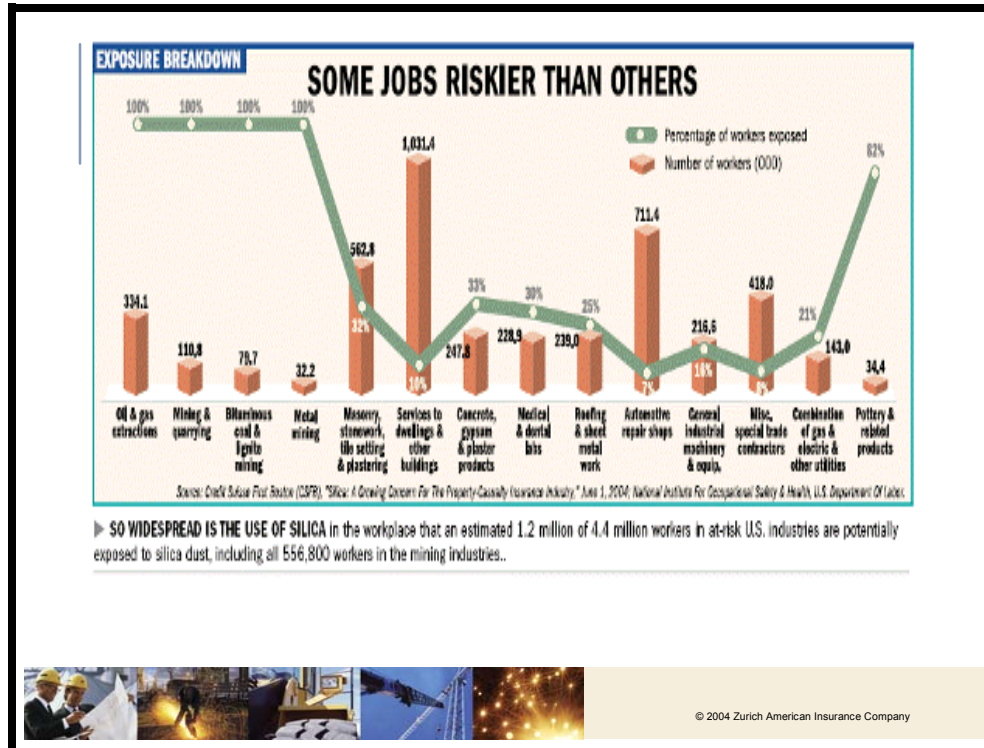
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Emerging Issue - Silica

- Silica is an odorless crystalline solid that is found as a dusty air contaminant in many industrial processes.
- Silica is used in many industries as an abrasive cleaner, scouring powder, metal polish, an extender in paint, wood filler, in concrete, and as a component in road surfacing mixtures. It is also used in the manufacturing of glass, ceramics and pottery as well as toothpaste, soap and water filtration.



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Silicosis

- Lung disease caused by the inhalation of fine dust containing crystalline silica particles
- Traditionally seen as Workers Compensation Claims, but recently have begun to re-emerge as product liability claims and operations claims
- Plaintiffs attorneys are presenting silica claims as product liability claims by alleging employees were not adequately warned of the dangers related to the use of silica

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Is Silica the next Asbestos?

- Early years of asbestos litigation 300 firms named as defendants . . . today over 8,400.



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