

STUDY:

Claims on Concealed Issues: What Part of “No” Don’t They Understand?

Just The Facts

A few months ago, I received a call from a California home inspector about a claim his prior client had lodged against his former inspection firm. This particular inspection firm is exceedingly risk-averse and settled very quickly with the dissatisfied client rather than turn the claim into its E&O insurance company.

It’s a posture toward claims that, according to the inspector, this firm enthusiastically embraces. And one, I might add, that I thoroughly discourage.

Example from the Field

This home inspection firm was now seeking reimbursement of its \$4,000 payment to the client from its former employee through Small Claims Court. It, however, does not seek reimbursement from current employees for claims that it pays resulting from inspections that they perform.

So, there was an element of retribution in its action against the former employee.

I coached the home inspector on the law and the appropriate demeanor that he should exhibit in Small Claims Court, gave him dispositive state court case authority and he walked away a winner after advising the judge of the Voluntary Payment Doctrine that I have spoken about often.

The truly baffling issue to me, however, was why the inspection company would even contemplate paying the claim in the first place.

This claim was absurd. The long and short of it was that some six months after the inspection, the homeowners had begun to smell odors in the kitchen, which were ultimately determined to be coming from underground sewage leaks that a rising water table had brought to the surface.

Subsequently, the homeowners brought in contractors who removed the kitchen floor - the area was inaccessible from the crawl space - and “discovered” several areas of leakage.

“So how come you didn’t remove the kitchen floor during your inspection?” I asked, tongue planted firmly in cheek.

“Exactly!” he responded.

I might just as well have asked, “Why didn’t you excavate the sewage line?”

THE TAKEAWAY

Concealed means *you can’t see it*. And a home inspection is limited, non-invasive and visual. Put the two together and the “legal doctrine” is established: you can’t report what you can’t see. And you can’t be responsible for not seeing it.

Your Professional Advocate

A question someone should ask this inspector’s former employer before it goes bankrupt from knuckling under to such ridiculous claims is this:

“What is it that you do not understand about the term ‘limited, non-invasive, visual inspection?’”

The vast majority of claims against home inspectors are for issues that were concealed at the time of the inspection. No inspector can report what he cannot see. And no one can hold him responsible for not doing so.

At least ...not while I’m alive. I discuss these issues in-depth during my live home inspector training sessions.

Visit my website, www.JoeFerry.com to learn more about my proven strategic response to meritless claims. My mission is to stop the UNDERBUSSING of competent home inspectors.