
"Boundaries and Limitation of Professional Liability"

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Claims Management Course CEM 591

Outline

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Objective

- The objective of this report is to discuss boundaries and limitation of professional liability.
- Issues concerning whether the designer is held accountable for accidents occur in the construction site and the time period that designer can be sued will be fully discussed in this report.

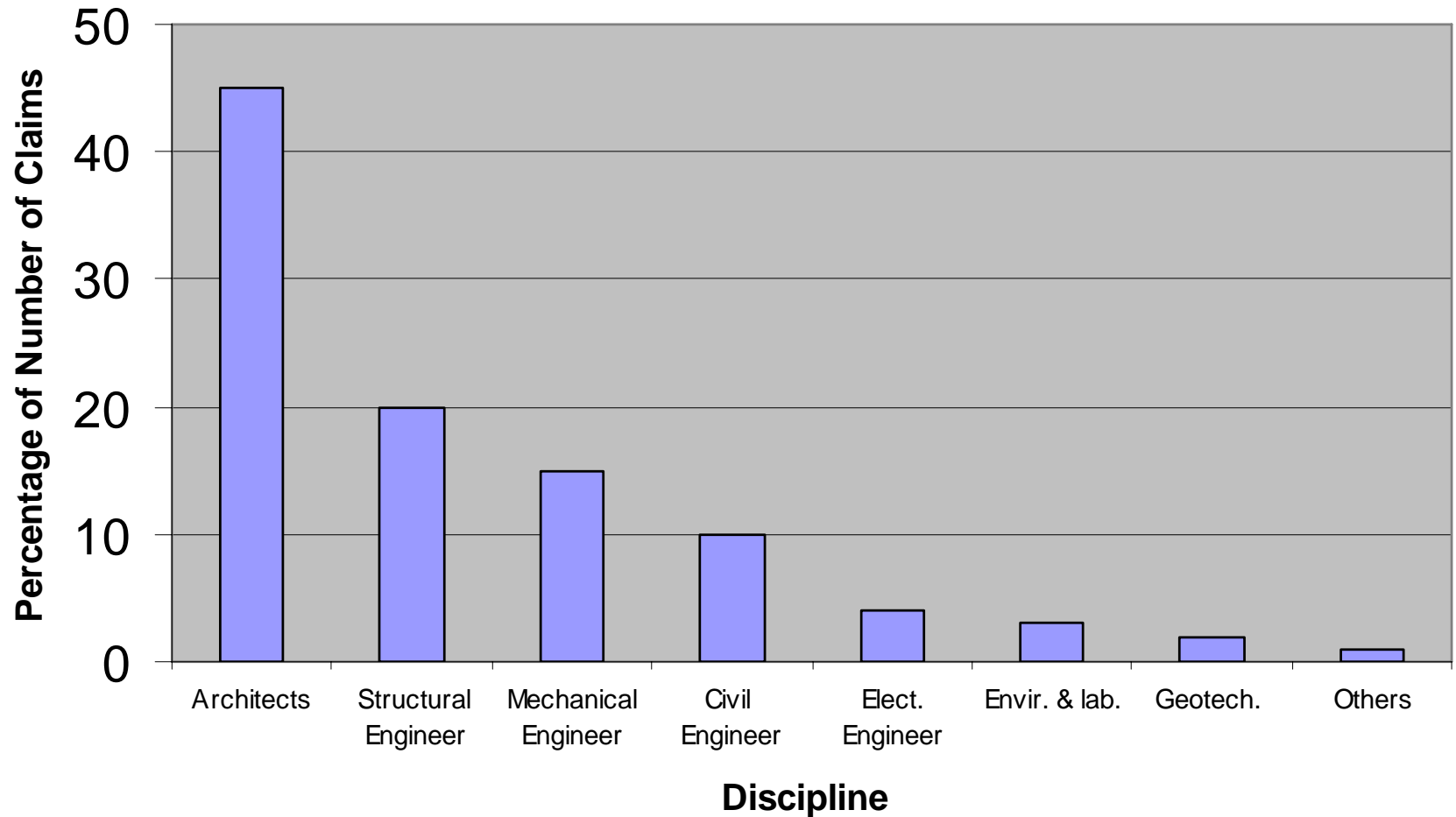
Introduction

- There are two sources of professional responsibility for engineers.
- The first is **professional organization and societies**, such as **American Society of Civil Engineer**, the **National Society of Professional Engineers**, **Institute of Electrical** , **Electrical Engineers**, and similar groups .
- The second is **State of Legislation** and corresponding regulating governing professional engineer.
- Construction and engineering professional can **reduce the risk of their mistakes and errors by insurance.**

Claim analysis

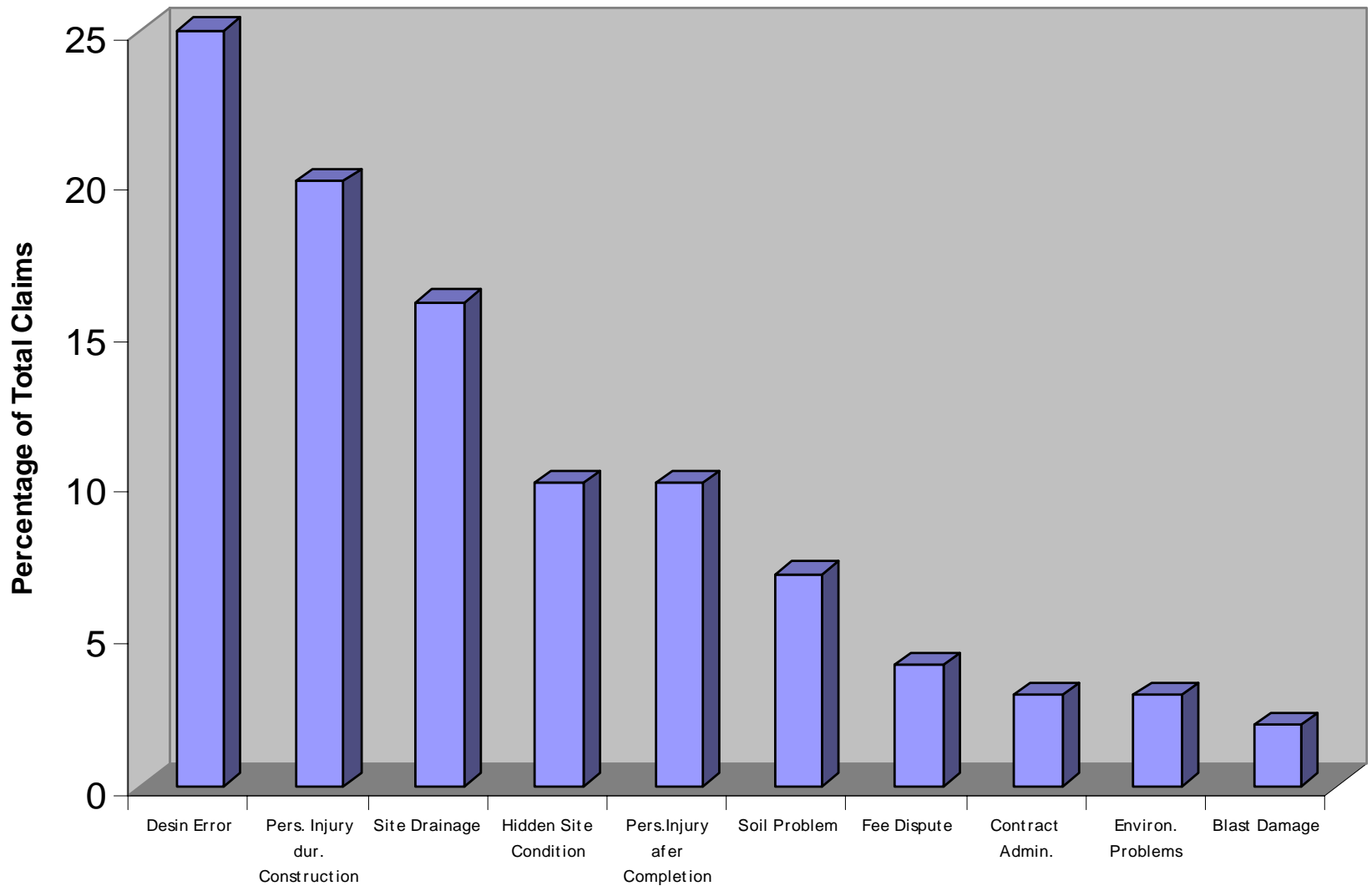
- The analysis of 370 claims that relate a number of errors and omission (E &O) with allegation as it is shown in Fig.2
- Architect and Engineers Insurance Company (AEIC) provide professional liability for more than 7 years.
- The sample size of study sample was taken from 90 representatives of architectural and engineering firms in Chicago on 1987

Number of Claims by Discipline



Source:(1996, Aug.)

Frequency of Claims Against Civil Engineer



**Alleged Error or Omission,
source:(1996, Aug.)**

Project Responsibility

- Design and construction discipline has been defined by state of licensing and registration laws.
- Distribution of responsibility is quit difficult especially between structural engineer and architect.
- Association General Contractor (**AGC**), endorsed a "General Conditions of the contracts for Construction", grant more amount of liability to the contractor for certain design detail.

The boundary of professional liability

- In the past, the design professional has not address construction site safety in the scope of work .
- It because inadequate education or training a safety instruction is not fully addressed in the scope of work .
- they don't have enough authority to let worker implement safety.

Cont..

- **Presently**, availability of computer based data base help designer to be familiar with safety necessary which should be applied in construction environment.
- implementation of the knowledge will effects owner's legal duty toward ensuring jobsite safety , and **towards liability assumed for worker injuries, will greatly influence the willingness of designers to implement the knowledge**

Implementation of safety knowledge

- Designer liability can be ascertaining by evaluating the relationship between use the design-for safety knowledge and whether use of this knowledge constitute a standard practice for the profession.
- For example, if designer include holes in the column webs at 21in and 42in above the floor level to provide support location for guardrails and this is not part of standard practice of structural design. As a result, by adding this feature to the column, a designer crosses the boundary between the design and construction

Designer Liability for Worker Injuries or Fatalities

	Safety knowledge implemented	Safety knowledge Not Implemented
Not Standard Practice	Not Liable	Liable
Standard Practice	Not Liable	Liable

Limitation of professional Liability

- Although statutes vary from state to state but the most of states laws are similar to California.
- The limitation depends on type of injury defect whether they are property damage or personal damages.

Statutes of Limitation Based on Date of Completion of Work

Damage due to following type of deficiency	Personal Injuries	Property damage
Patent	4 yrs after substation	4 yrs after substantial completion
Latent	No statutes of limitation	10 yrs after substantial completion

Date of occurrence of injury

Personal Injuries	Property Damage
1 yr from accrual	2 yrs from accrual

Conclusion

- we have seen in claims analysis for AEIC on 1987 .
- The importance professional liability insurance came as results of claims due to patent and latent defects .
- The period at which designer is legally sued for his error and mistakes are 10 years as per California laws
- Implementation construction safety concern through design stage will prevent injures and fatalities, and it will reduce the possibilities of involving third party.