



The Commercial Flooring Report

For the Commercial Floor Covering Industry

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HOW YOUR CLAIM GETS HANDLED

Here at LGM we not only get involved with examining flooring claims and failures in the field and consulting on them, but we also have extensive knowledge of how the claims and complaints process works at a manufacturing level. We track trends in products and problems based on the number of calls and requests we get for help from flooring contractors, general contractors, architects, commercial end users and attorneys, throughout the country. If a manufacturer tells you that you're the only one with a complaint on a particular product, it's probably not the case.

We thought we'd share with you some of the inner workings of how your claims are handled. Aside from what seems to be the norm today of manufacturers denying any claim at first, blaming it on something you did, and then having you grovel to make any headway at all. To add insult to this, they send out people to determine what the problem is and, most of them have no clue, make assumptions that are taken as fact, further putting nails in the coffin. The resolution of a claim is often based on how much business you do with a manufacturer and how much noise you make. As in most things in life and business, money talks.

Manufacturers track their products and know which ones are creating claims which are recorded into their claims code system. With hard surface products, particularly luxury vinyl tile and plank, most everyone selling the product does not manufacture the product, the majority comes from overseas. And if they're manufacturing it, they may be getting some components from overseas and doing the final assembly in their state side plants.

While we are giving you a sneak peek at some of the claim's workings, not all manufactures have gone to the dark side, and those that have still have some good folks that work for them.

LGM was involved in a major lawsuit back in 2018 for a school in New Jersey and was privy to many, many manufacturing documents. In those, we found one claim code that was most curious, Customer Accommodation, it was explained that this claim code worked as follows.

Customer Accommodation – When a manufacturer issues a credit to a customer without admitting that their product has a defect. The claim can process under several different scenarios.

- ♦ When a manufacturer receives a complaint, but the dollar amount of the claim is so small they don't want to spend money to have it inspected. They may request a sample of the defect, pictures, and a narrative of the situation. Depending on the findings one of three processes will happen – A large dollar amount customer may get their credit issued as an accommodation with credit towards pull up or reinstallation without jumping through any hoops. Smaller customers normally must submit proof

of the claim and may get approval but not be paid for pull up or reinstallation or their claim may just be declined outright.

- ♦ The Manufacturer has a good customer that needs to expedite the movement of a replacement product, and the manufacturer agrees to replace the product because you are such a good customer as an accommodation. However, if they find out the product is not defective, the customer may be charged back for the product, with no credit towards pull up or reinstallation.
- ♦ Big One – The Manufacturer knows they have a defective product, but they have too much inventory to admit there is a problem. They offer their very best customer's an accommodation and pay for pull up and reinstallation, while their small customers get declined or remain pending until they go away. While continuing to fulfill orders the manufacturer is testing and inspecting their inventory and they're trying to decide what to do with the product. Most times you will notice the product is eventually taken from the website.
- ♦ You also need to understand there are several people in a transaction. The manufacturer – The buyer of record listed on the invoice – The retailer and the end user – The manufacturer will only discuss the situation and will only issue a credit to the buyer of record and for the amount the buyer paid not what the retailer or end user paid. A manufacturer will not issue credit for the profit you lost only the cost of the product and will only issue credit for the going rate of install in your geographical area. This is the rule for most customers. There are always exceptions to the rule and each situation may warrant different actions or decisions.

So, what happens when you know you did nothing wrong and can't get any satisfaction and your claim is denied? Or when you get a denial letter responding to your claim that makes no sense at all, outlines assumptions without any basis in fact and takes no responsibility for any failure. Whether this is the flooring product itself or something used with it on the job that failed, causing the flooring material and the installation to fail. Naturally you want to lash out and avenge the wrong, so you file a suit against the manufacturer. As the process moves along your attorney goes through discovery where they'll ask for all manner of information. If you know specifically what to ask for, and we do, you'll get records on claims against the particular product causing the complaint. There would likely be information buried in the documents that wouldn't make sense to anyone that didn't know what



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to look for – enter LGM. We are experts in finding the needle in the haystack and uncovering information and able to interpret it to prove the product is a problem.

We hate to see anyone being taken advantage of when we know they did not cause the complaint they are being blamed for. Or when we know a particular product on the market is defective and you're being told you're the only one with a complaint on it. We're like a clearing house for commercial flooring claims. We get contacted daily with issues that are occurring all over the country on the same product that someone is telling you they've had no claims on. In addition, we can get information that no one else can and many of our associates come from manufacturing and understand how the system works.

Here's something else that we've been made aware of recently by one of our residential associates. The reports he was writing were being altered by the party that commissioned him changing the conclusion to exonerate them. Who does this? How despicable can you be? What'd happened to the morality of folks - between right and wrong decisions – unethical behavior – lying without consequences and having no qualms about it. This happened more than once and by different parties. This behavior is a pestilence that's overtaking our country and is virulent to us all.

We don't see things changing anytime soon and in fact we see them getting worse. When manufacturers say in industry publications how much they care about their customers and dealers and then deny complaints they get on products we know are defective, either they don't know, their stockholder numbers matter more or worse they don't care.

We've driven many of our consulting clients away from manufacturers or products that have pervasive problems and guided them towards manufacturers and products we know won't fail them.

Claims policies originate at the top of the management chain. Claims and complaints are going to happen with every type of product you buy. They are inevitable and understandable. It's how they're handled that makes the difference. When you don't make a product and it fails you must stand behind it. You represented it as first quality and by offering it to the

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See Page 6 Regarding
Excess Inventory Offer

market, warranted that it was fit for the intended purpose of use. You must understand the product and know it. Unfortunately, today there are fewer people that understand the product and more concerned with sales and profits.

To this I am a follower of Mike Hernacki who wrote several little books on business and success. One of his teachings is that if you create value for your customer, they will in turn create value for you. That is, if you provide a quality service or product first, without putting your profits ahead of that, the customer or client will create value for you, which is your profits, that will continue to come to you as a result – his law of accelerating acceleration. They don't teach this in business school or anywhere in life it seems since greed is so pervasive.

Understand that I'm not saying that the flooring contractor is not without blame for failures but most of them that I know will accept the responsibility for something they did wrong. Most will fix or replace a job with a claim just to keep their customer and fight over it later – which is where we most often get involved. And if the flooring contractor is wrong we'll tell them why and how.

I love when you get a denial letter that ends with the statement that we look forward to doing business with you again. Really? That's like a slap in the face after you've been screwed.

Here is quite the opposite. Following is a letter from a manufacturer in response to a claim that they honored that I thought exemplified class. I think you'll feel the same when you read it. Not only did they honor the claim for the defective flooring, but they explained what they do when the product is out of tolerance. I've never seen this before; very impressive.

"Thank you for contacting us about the floor installed in your facility. In reviewing your claim and the samples that were submitted, flatness measurements were conducted on the uninstalled tiles provided from the jobsite and were found to be outside of manufacturing tolerances for the product.

There are numerous steps that our quality teams take regarding standard operating procedure for reactions to products that would test out of specification:

- Hold and reinspect all products in inventory from the same or similar runs of the product
- Investigation into the process conditions and data during time of production.
- Execution of corrective actions (retraining, process adjustments, etc.) determined
- necessary by root cause analysis and steps above.
- Inspection of replacement material prior to shipment to claim site.

This was an unfortunate situation and we can assure you that our claims to sales ratio on commercial tile is less than ½ a percent of our total sales within this product category.

Thank you for the opportunity to review your concerns and explain the outcome of our investigation."

This is a manufacturer I'd do business with again.

I've always said that LGM works in the drain of the sewer of the industry, which is major commercial claims, complaints and failures. But we are more than willing to help anyone who has a question or concern about a flooring failure. Understand, that though we focus on the darkest areas of the industry, the vast majority of flooring gets installed without any problems at all. We only get to see the worst case scenarios or the most contentious or the ones that someone makes such a stupid comment it must be addressed firmly.

Tips to help you

Some tips for avoiding claims are to do business with manufacturers you know and trust. Especially today when everyone and his brother seems to be selling vinyl flooring that looks like a deal. Be very wary of deals and obscure providers of product you know nothing about. Follow the manufacturers guidelines and use their materials. If there is a failure, you'll have less of an argument if you did what they said and used their stuff. Don't believe everything you hear. Anything can fail at any given time as there are no two jobs or situations or conditions alike - ever. Take notes, save emails, get things in writing and take pictures. The more information you have the stronger your position will be if there is a problem. If something feels wrong, it probably is and walking away from a job may be your best option. The material cost will be the least expensive part of a flooring failure, it's the cost of everything else that can put you out of business. Ask questions and get explanations from someone who knows what they're talking about. Reps are not technical people. How many times we see the wrong product sold or specified on a project that had no business being there. If you're in a group, ask other members if they've had any problems with a product you may be using on a project. The flooring failure may be the obvious cause of a complaint, but it may just be exhibiting the result of something causing it to do what its doing. Most of the flooring failures we've looked at over the last three or more years on luxury vinyl tile or plank claims have not been the result of installation but inherent product problems. If what someone's telling you seems like a bull shit excuse for a problem, it probably is.

This is etched in stone: the flooring never lies; it will always tell you what's wrong if you know how to interpret what its saying. People lie, but never the flooring.

At LGM, we are hard asses after the truth. We don't care who retains our services, the answer is the same no matter who's paying the bill, that would include my mother, rest her soul. We don't do this to make friends. We do it because our clients need help and answers, and that we can give them - without question. That's our mission.

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