

CFR The Commercial Flooring Report

For the Commercial Floor Covering Industry

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No Certificate - No Recognition - Shame on You!

It's a shame that in the flooring industry, of which I've given 55 plus years and will continue to do so, that a manufacturer has chosen to disregard my expertise, integrity, experience and honesty as well as those of my associates. They say due to a piece of paper that has the word "certified", and that my name is not on a "list" of approved individuals, that our findings are not valid. While I respect the classes and certification that should not be a substitute for knowledge and experience.

The type of clients we are retained by never ask if we're certified, they know us by reputation and referral. My qualifications are readily available to these manufacturer's claim departments, but they arbitrarily choose to disregard them. My Curriculum Vitae (CV) has been accepted by multiple sectors; large corporations, builders & national construction companies, architectural firms, flooring conglomerates, law firms specializing in various fields, arbitrators, judges, individuals, and yes, even flooring manufacturers, and I've been proffered as an expert witness in the US and International court systems, at all levels. Experience and knowledge are what is important to our clients when working on multimillion-dollar issues. We are known as the flooring industry experts.

But, according to one manufacturer, I'm not qualified or recognized because I've not taken an inspection class, sanctioned by them. Because I have not taken a one-week inspection class, approved by a manufacturer, I'm not certified and without this certification I'm not allowed on some sort of list in their claims department. What they don't acknowledge is that decades ago, I developed, with the founder of IICUC, Ed York, (now IICRC) the flooring industry's first certifying inspection school where we trained not only independent inspectors, but manufacturer's claims managers and analysts. So instead of taking the



Testifying in Federal Court for a General Contractor



Annual Flooring Industry Presentation

the class, I helped create it. But it gives the manufacturer a spurious reason to deny my participation in the claim.

Truth is I probably trained or had a part in the original training programs that the inspectors on their list had to go through to be certified. The founder of one of the top inspection schools was a student of ours.

Here's an interesting fact, the schools certifying the inspectors are themselves not accredited by anyone, there is no oversight or governing body for any of this. It's not like a doctor who is overseen by the medical board. There is no board to oversee the school, instructors or the inspectors. Just a simple, 5-day class where they get their certificate and they are magically "on an approved list." For that matter, anyone can start a flooring inspection class and certify the participating students.

Here is the statement of one of the manufacturers in our area gave as a response to one of our commercial clients that was engaging us in a claim against their product:

*"Mr. Migliore is not a certified inspector, and as such, **Redacted** does not recognize or reimburse inspections conducted by non certified individuals. **Redacted** is committed to providing our customers with unbiased and accurate evaluations and, for that reason, commissions only certified inspectors to perform inspections and issue reports. We respectfully request the same standard be followed when inspections are conducted on behalf of our customers."*

Now, I'm known for my unbiased, objective, independent, and accurate evaluations and for that reason I've been fortunate enough to be in business for over 55 years with an outstanding reputation. I don't hold back any punches.

One of the best ways to determine how well you do in this business is referrals and repeat business. LGM and Associates doesn't have to advertise because of the referrals and repeat business.

I have a lot of respect for these certified individuals and a lot of respect for the individuals doing the day in and day out unforgiving claims jobs at the manufacturing facilities.



Talk Floor—Industry Trouble Shooter



THE COMMERCIAL FLOORING REPORT

Lewis G. Migliore—President

P: 706.370.5888 or Email: lgmtcs@optilink.us

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***"When No One Else has Answers,
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*Just click the image below or search under
Lew Migliore and let's connect on LinkedIn!!*

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Page Layout By: Anita S. Drennon

If you would bear with me just a bit I'm going to toot my own horn. Here are a few of my accomplishments past and present;

- Co Developer, Inspectors Certification Program
- Developer claims information program taught to carpet mills
- Co Developer, quality control seminar for carpet mills
- Instructor, International Institute of Carpet and Upholstery Cleaners Claims School
- Developer, claims, installation, maintenance and padding policies for multiple carpet manufacturers
- Advisor to S600 Carpet Installation Standards Guideline
- Member of the original board of directors of IICUC (now IICRC) and former Chairman of the Board
- The Commercial Flooring Report for over 22 years.
- The Claims File column, in Floor Covering News, which I wrote for over 26 years
- Characteristics, Information and Performance for Carpet and Textile Floor Covering
- Carpet Specialists Technical Services, Technical Bulletins on Carpet Problems
- The Senior Carpet Claims Inspectors Book
- Nine Major Claims Categories and Problem Areas, categorizing all complaints and claims for the flooring industry
- Flooring Forensics, column for Floor Focus Magazine
- Talk Floor- guest speaker on flooring problems and issues for over 20 years
- LGM Carpet Seminar and LGM Concrete Moisture and Flooring Failures seminar.
- Developer and host, The Industry Trouble Shooter weekly radio show on Floor Radio

Our firm has a client list of who's-who across the country. Except for flooring manufacturers. Generally, they don't engage in our services, and we don't solicit their business. Manufacturers have and do make use of our services in something involving a very costly issue they may be involved with but typically, this does not involve their claims managers or departments.

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As a customer, you have the right to use an independent expert. If you were only allowed to use inspectors selected by a manufacturer on the case, it would be like asking the fox to guard the hen house. Being employed by the manufacturer has a tendency to create the appearance of bias.

If the case did go to court, the judge would determine if the witness is considered to be an expert on the subject. Education is only one of many ways to prove an expert in their field. We have 55 years in the field. We also operate the business in the middle of the flooring industry in Dalton, Georgia. There is not a judge out there that would not take that into consideration, especially versus someone who may only have been doing inspections for a short period of time after a one-week training course.

I realize that this is just the process that the claims analyst is instructed to go through when a claim crosses their desk. The analyst didn't even look to see if the information was valid. They were supplied with test results photos, and a sample of the product they are claiming is defective. The analyst is given certain guidelines and if the claim warrants an inspection they find their approved list, the state where the claim is filed and pick an inspector. The analyst is not concerned with any other factors than this person is on the approved list of inspectors.

Now if you are a person that has decided to go into the inspection field and has paid the money to complete the course and have been assured of a place on the approved list you are hoping for these manufacturers to contact you. I'm not questioning the inspector's trustworthiness or their ability to be unbiased or even give accurate evaluations but how much time do they spend looking for the other factors that could be affecting the flooring. Even when the flooring product is defective straight out of the box.

It's very difficult for the manufacturer's claims analyst to find any reason to accept the claim is defective in the first evaluations of the process. It is like any other insurance claim; deny first, sort out the issues later if the claimant comes back.

At the onset of a complaint no one has an advantage. For the customer it doesn't matter how high your sales volume is with the manufacturer; the customer is no longer in the position to be initially believed.

Manufacturers don't set out to create a bad product. They have good intentions when they make new products with new ingredients, such as, "green" products. It's just that sometimes the consumer is the only test ground for these "good intentions" and that goes for other industries and other products.

Now that the product is in the field a situation may occur where that new product generates claims that start to trickle into the claims department. No one knows what the exact problem is at first and you no longer have that one-on-one customer service experience. We find that most claims are initially declined for one reason or another. The analyst may or may not know anything about the product you have. Even if they do know about the product the first knee jerk reaction is to blame everything else before the product. Nothing wrong with that especially considering there are three main areas to consider when reviewing potential fault – onsite concerns, installation errors and the product itself.

Once you get past the first two hurdles and you've proven the product in question is defective, you would think the manufacturer would take responsibility but think again. They have a warehouse full of this product, and they

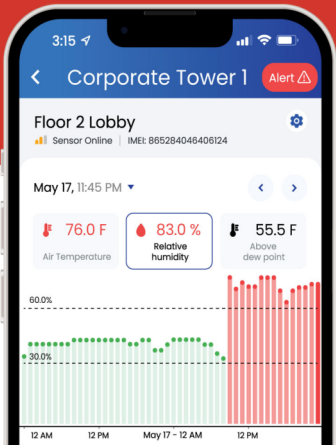
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won't be so keen to allow the product a defect history due to potential consequences. You must move up the food chain to get results, if you're lucky, and you must almost beg for some type of concession. Funny that the majority of the hard surface flooring products are not even made by the manufacturers selling them. They source them from someone else. So, you may think, just pay my claim and you can charge back your guy, right. In the United States there are more legal ramifications to consider than in other countries. Not so cut and dry.

Claims are tricky, costly and painful. They can break a business. You should always use the best representation for your business.

Follow the Guidelines:

It's best if you follow the manufacturer's guidelines or the claims process will take longer. As soon as you know you have a problem you must immediately file the claim on line or by phone. This is their first date of reference. Wait 24 hours and call the claims department or your sales representative to verify they received your claim. Always begin by making the person you're dealing with aware of your situation with pictures, samples, documents, and information. It is imperative you document everything. Unfortunately, you must get through the weeds before you get to the water – be persistent. It is still true, "the squeaky wheel gets the grease." Be persistent, persuasive, determined and personable.

Of course, it's best not to find yourself needing to file a claim at all. Here are a few tips on how to avoid complaints;

Follow all the appropriate rules and guidelines:

- Know what can go wrong
- Be proactive. Know the product you're installing and who you're sourcing it from
- Have you used it and installed it successfully before without any issues?
- Know the manufacturing processes – information on line can help you with this
- Is the installation site, substrate, and ambient condition acceptable?
- Follow the installation guidelines and use the specified adhesive and materials
- Protect the flooring from construction damage
- Certain job amounts should have the sales representative and installer on site at start up
- Know your warrantee for the products that you are using
- Document every step of the job in writing and with pictures – this information is invaluable.

Here are the most common causes of claims:

- Overselling
- Misspecification
- Lack of product knowledge
- Lack of installation skills and knowledge
- Acceptance of conditions and substrate
- Environmental conditions
- Not knowing what's wrong and how to fix it
- Ignorance and lack of common sense
- Chance shipments by the manufacture
- Customer's expectations

Do you install it or not? Most of the manufacturer's warranties state, "inspect before installation." Inspect the product before scheduling the installation. If you run into a problem on the jobsite, you should immediately contact the mill rep and document everything. You can always use your phone to record and take pictures. Realizing that the mill can't do anything "right now" and sometimes you don't have a choice, you must begin the installation. You must get the sales representative involved and file your concern on the manufacturer's online claims site. You may think you don't want to file a claim yet but the only way to



protect your decision to install is to file the claim; the date matters. If possible, get someone on the phone and if the analyst can't give you advice, climb the food chain and speak with a supervisor.

Lastly, if necessary, you must defend yourself. Everyone appears to be afraid of attorneys, and the mere mention of the word attorney elicits reactions that can be compared to having teeth pulled. First, despite what you may think, the law is the same for everyone and it's about being reasonable, especially when it comes to disputes over flooring. Nothing is cut and dry. There are portions of complaints that are impacted by the law governing product performance and those influenced by the normal standards and practices of the industry. You should never respond to a complaint brought against you by a customer, supplier, etc. that is represented by legal counsel without being legally represented yourself. Flooring lawsuits rarely see the light of a courtroom. The threat of a trial is more intimidating than the actual occurrence. Judges don't want their courtrooms cluttered with disputes over a carpet that faded or flooring material that shrunk, dented, scratched, matted or otherwise didn't deliver the type of performance or appearance retention expected. Lawyers are not flooring experts either. They know the law, but they don't necessarily have knowledge of flooring. This is where we come in as experts in our field. We work with attorneys daily on large claims, complaints, and actions offering expert advice.

When you retain a construction attorney, which is what you would be doing to defend yourself in a flooring lawsuit, they will examine your case and determine whether you have a legal claim. The attorney will file the complaint and represent you in court or interact with the opposing attorney to help resolve a matter. Typically, things such as money damages will likely settle before you get close to a trial, as I mentioned earlier. By retaining a construction attorney, you, or the individual(s) filing the suit against you, will be able to consult and discuss the legal issue with counsel. Hiring an attorney can relieve a lot of stress because the attorney will be managing and handling your case as the expert that you are not.

Millions of dollars are lost every year because the industry does not properly respond to claims. This includes manufacturers, dealers, installers, and anyone who has anything to do with trying to resolve a complaint. Certainly, claims and complaints are the most distasteful part of being in business. No one wants to have to deal with a complaint and most people don't really know how. You may think you do, but most of you don't.

In every single case, quick response and a genuine offer to settle the problem, whatever it takes, will end the complaint. This will almost always be a whole lot less than what it takes later, after the end user has been snubbed, jerked around, lied to, made to wait, and generally left twisting in the wind. What's most disturbing is knowing that the situation could have been rectified and resolved sooner, easier and with much less expense if somebody hadn't dragged their feet and declined, declined, declined, over the least little nothings hoping you will just go away. I'll never understand this. If a flooring product is unstable, it will rear its ugly head rather quickly. Here's a tip. For modular products such as carpet tile, vinyl plank and tile, take a few pieces, lay them out on a very flat surface, such as a glass top conference table for a couple of days and see if they lay flat. If not, the product is likely to do the same after it's installed. Remember, the product never lies, people do, but not the flooring.

If you need help from a unique, highly experienced and professional firm that really knows what they're doing with flooring issues, from concrete to carpet, with a host of expert associates, several of whom worked for manufacturers, call us. We can help you. We always have the answers, always, it's what we do.

If you need help, have a question, aren't sure of a situation you're in, want to avoid a problem, or need guidance on a project or product, contact us. We always have the answers, always. It's what we do, from the substrate to what goes on it.

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