



## 2025 Subcontractor Legal Defense Fund (SLDF) Update

1. *Wadsworth Construction v. Regional Rail Partners* – On appeal to the Colorado Supreme Court, this case was approved by ASA in September 2024. In this case, the Subcontractor filed suit against the Contractor for breach of contract, unjust enrichment, claims against the bond, and other claims. A lower Court awarded the Subcontractor for breach of contract, liquidated damages and backcharges, but the Court of Appeals reversed, awarding the Contractor its attorneys’ fees and costs and remanded to the trial court to determine compensation. The Subcontractor is seeking Supreme Court review.
2. *Texas Southern University v. Pepper Lawson Horizon International Group, LLC*- May 2023 Texas Supreme Court case in Pepper-Lawson prompt payment lawsuit resulted in affirmative ruling and win for subcontractors. This case was a WIN for the SLDF, as the state’s appeal to the Texas Supreme Court was denied in December of 2023, closing the case as settled law.
3. *Twigg v. Admiral Insurance Co.*, Petition for Review to Oregon Supreme Court Case - Oregon case involving lawsuit against insurer for breaching its policy with the Contractor when it failed to pay a portion of the Contractor’s liability to owner under the arbitration award. The Oregon Supreme Court granted review on the case, no doubt in part because of ASA’s participation as amicus. A decision from the Court is expected in early 2024.
4. *Acuity v M/I Homes of Chicago, LLC*, on appeal to the Illinois Supreme Court- Another WIN for SLDF, on November 30, 2023, the Illinois Supreme Court issued its opinion in *Acuity v. M/I Homes of Chicago, LLC*. The case involved commercial general liability (“CGL”) coverage for construction defects resulting in water damage to a townhome project. The appellate court’s request to clarify as to the existence of property damage or occurrence in Illinois was supported by the SLDF in collaboration with the AGC, NAHB and local chapters in Illinois. The Supreme Court answered the call and embarked on a clarification that was extremely favorable to the construction industry and its broad coalition of support.
5. *Third Coast Services, LLC v Castaneda* in the Texas Supreme Court – This dispute involved a fatal multivehicle accident, which resulted in the death of an individual named Pedro Castaneda. The deceased’s family sued SpawGlass Civil Construction, Inc. and Third Coast Services, LLC for negligence and premises liability. While the direct laws at play apply to the state of Texas, it was agreed that the broader interpretation of immunity for construction workers is relevant nationwide. The issues regarding a broad application of statutory immunity are of interest to construction subcontractors and suppliers involved in Projects who believe the Project is covered by a CGL policy.

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