

A Picture is Worth Thousands of Dollars!

Using Photographs Effectively and
Maximizing Recovery in
Small Subro Claims



National Association of Subrogation Professionals

Large Volume, Small Property Practice

- **Construction defects**
- **Negligent construction activity**
- **Product liability**
- **Intentional torts (theft, vandalism)**
- **Employee theft**
- **Negligence (fires, installation/repair of appliances)**
- **Worker's compensation**
- **Juvenile- negligence and intentional acts**
- **Auto-related (theft of insured vehicle/H&R, car hits house, etc.)**

Why are photos so important in small subro claims?

- **Not cost-effective to hire O&C or other experts**
 - Brass fittings – experts - \$\$\$
- **Small loss sites less likely to be available for inspection by parties of interest**
 - Next best thing to being present at scene

The chicken breast case



Pre-packaged stuffed chicken breast

- **Package: Microwave on “High” for 30 minutes to internal temp of 165°**
- **Should have read “BAKE at 400° for 30 minutes**
- **Smoke damage when stuffed chicken became too hot and burned**

Photo of packaging was essential!

- **Packaging retrieved from garbage by insured and photographed**
- **Adjuster obtained exemplar to photograph**
- **Grocery store paid claim at before hearing**

Photographs proved the case!

- **Word versus word in court**
- **Adjuster obtained photos to prove liability**
- **SUCCESS!**

Do your photos tell a story?

- **How did loss happen?**
- **Can photos help explain the loss to someone not present at the scene?**
- **Are your photos persuasive?**

Animals at Large

Baa-d Photos



Bad photos make your claim MOO-T!







Cherry pie? Or piece of cow?



The fact that animals escaped isn't enough!



The fact that animals escaped isn't enough!

- **Need to prove HOW the animals escaped**
- **That owner KNEW or SHOULD HAVE KNOWN that animals could or had escaped**
- **Failure to act**

Bad cow-at-large case

- **Cows escaped under a fence – path and hollow in ground showed where cows went under fence**
- **Photos had NO perspective – not persuasive that cow could walk under fence**
- **Tape measure photo would have been helpful**

Tape measure photo – persuasive!



“Good” Photos

What are “good” photos?

- **Show condition of fencing**
- **Lack of repairs or maintenance**
- **Substandard or inadequate to contain type of animals**











Product Liability

**Your case won't hold water if you
don't have good photos!**





“Good” Product Photos

- **Show product immediately post-loss
(installed, in place)**
- **Identify product – type, manufacturer**

Toilet case

- **Adjuster's photos helped us notify manufacturers of defect –opportunity to inspect**
- **Manufacturers usually want clear photos of their allegedly defective product**











Plumbing fixtures

- **There are many manufacturers, and even distributors whose stamps appear on fixtures**
- **Good photos of stamps help identify possible manufacturer**
- **Manufacturers want clear photos of their allegedly defective product**





12/15/2009

15/12/2009



Zurn or Uponor?

- **Zurn and Uponor – manufacturers of plumbing systems and fittings – “pex” and brass**
- **Consolidated multi-state class action lawsuits**
- **Essential to correctly identify – to present claims to correct company!**

Zurn or Uponor?

Zurn – Q-Pex



Uponor – P-Pex



Taking “to scale” photos





Construction Defects

New low-slope roof



New low-slope roof on residence

- **No leaks, no water damage**
- **2 years after roof install, insured noticed:**

Nails in cathedral ceiling



Nails in ceiling

- Contractor used too-long nails
- Entire roof and ceiling had to be replaced
- Photos made the difference in case with “no damage” from an event

No Flashing on New Roof

- **Contractor failed to install flashing, roof valleys and kickouts**
- **Water entered residence through front walls, damaging wood floor in hallway on main level**
- **Photos clearly show lack of flashing**

Insufficient Roof Valleys



Insufficient valleys, no flashing



Bats in the attic

- Homeowners had new roof installed
- Contractor built chimney vent with sheet metal
- Large gap inside vent allowed bats to enter residence and nest
- Damage – clean up of bats, replace vent

Bats in the attic



Bats in the attic



Bats in the attic

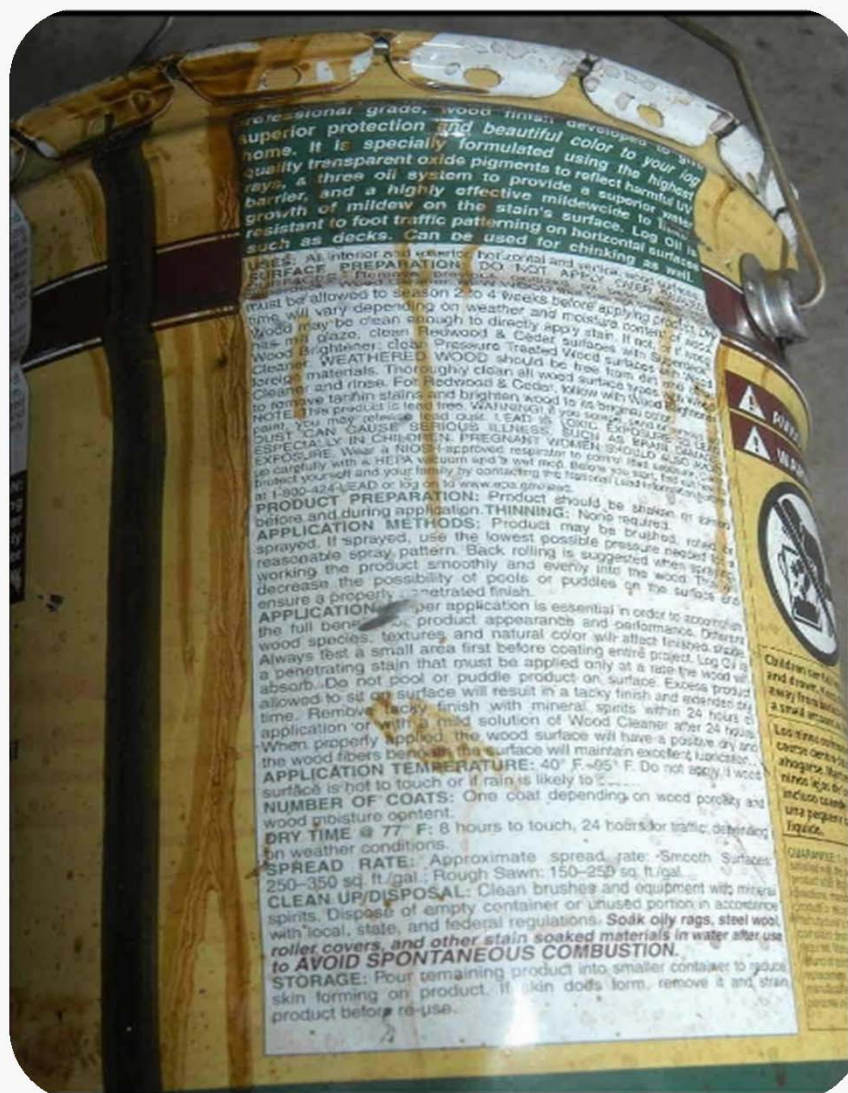


Negligent Construction Activities

Spontaneous Combustion Case

- Contractor left pile of stain-soaked rags on pile of wood siding
- Can of stain was discarded
- Photos of can by adjuster – clear warnings!
- Photos tell a story – contractor ignored warnings





professional grade, wood finish developed to give superior protection and beautiful color to your home. It is specially formulated using the highest quality transparent oxide pigments to reflect the highest rays, a three oil system to provide a superior barrier, and a highly effective mildewicide to inhibit growth of mildew on the stain's surface. Log Oil is resistant to foot traffic patterning on horizontal surfaces such as decks. Can be used for chinking as well.

USE: All interior and exterior horizontal and vertical wood surfaces. **SURFACE PREPARATION:** DO NOT APPLY to wet, greasy, or dirty surfaces. Surfaces must be allowed to season 2 to 4 weeks before applying product. Dry time will vary depending on weather and moisture content of wood. Wood may be clean enough to directly apply stain, if not, it must be cleaned. Clean Redwood & Cedar with a mild detergent. Wood Brightener, clear Pressure Treated Wood surfaces with Superdeck Cleaner. WEATHERED WOOD should be free from dirt and old stain. Thoroughly clean all wood surface with Superdeck Cleaner and rinse. For Redwood & Cedar, follow with Wood Brightener to remove tannin stains and brighten wood to its original color. NOTE: This product is lead free. WARNING: If you scrape, sand or remove paint, you may release lead dust. LEAD IN YOUR HOME. LEAD DUST CAN CAUSE SERIOUS ILLNESS, SUCH AS: HEADACHE, FATIGUE, AND ESPECIALLY IN CHILDREN, PREGNANT WOMEN SHOULD ALSO AVOID EXPOSURE. Wear a NIOSH-approved respirator to control lead exposure. Wash your hands and your laundry by contacting the National Lead Information Center at 1-800-424-LEAD or log oil at www.logoil.com.

PRODUCT PREPARATION: Product should be shaken or stirred before and during application. **THINNING:** None required. **APPLICATION METHODS:** Product may be brushed, rolled or sprayed. If sprayed, use the lowest possible pressure needed for a reasonable spray pattern. Back rolling is suggested when spraying to work the product smoothly and evenly into the wood. Thoroughly decrease the possibility of pools or puddles on the surface and ensure a properly penetrated finish.

APPLICATION: Proper application is essential in order to accomplish the full benefit of the product appearance and performance. Different wood species, textures and natural color will affect finished appearance. Always test a small area first before coating entire project. Log Oil is a penetrating stain that must be applied only at a rate the wood will absorb. Do not pool or puddle product on surface. Excess product allowed to sit on surface will result in a tacky finish and extended dry time. Remove tacky finish with mineral spirits within 24 hours of application or with a mild solution of Wood Cleaner after 24 hours. When properly applied, the wood surface will have a positive dry and the wood fibers beneath the surface will maintain excellent luster.

APPLICATION TEMPERATURE: 40° F.-95° F. Do not apply if wood surface is hot to touch or if rain is likely to fall.

NUMBER OF COATS: One coat depending on wood porosity and wood moisture content.

DRY TIME @ 77° F: 8 hours to touch, 24 hours for traffic depending on weather conditions.

SPREAD RATE: Approximate spread rate: Smooth Surfaces: 250-350 sq. ft./gal.; Rough Sawn: 150-250 sq. ft./gal.

CLEAN UP/ DISPOSAL: Clean brushes and equipment with mineral spirits. Dispose of empty container or unused portion in accordance with local, state, and federal regulations. Soak oily rags, steel wool, roller covers, and other stain soaked materials in water after use to AVOID SPONTANEOUS COMBUSTION.

STORAGE: Pour remaining product into smaller container to reduce skin forming on product. If skin does form, remove it and strain product before re-use.

Children can be harmed and even killed if they swallow or breathe this product. A spill should be cleaned up immediately.

Log Oil contains caustic chemicals that can cause severe burns. Wash thoroughly with soap and water. If swallowed, call a doctor immediately. Use proper ventilation.

CAUTION: This product will stain. Do not use on surfaces that will be stained. Do not use on surfaces that will be stained. Do not use on surfaces that will be stained.

application of wood cleaner after 24 hours. When properly applied, the wood surface will have a positive dry and the wood fibers beneath the surface will maintain excellent lubrication.

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STORAGE: Pour remaining product into smaller container to reduce skin forming on product. If skin does form, remove it and strain product before re-use.

PRECAUTIONS: CONTAINS PETROLEUM DISTILLATE.

Keep away from heat, sparks and flame. May be irritating to eyes and skin. Do not use product indoors, for exterior use only. Avoid breathing vapors or mist. Use only in areas with adequate ventilation. Wear a respirator during spray applications. If you experience eye watering, headache or dizziness, increase fresh air or wear respiratory protection (NIOSH/MSHA TC23C or equivalent) or wear the area. Close container after each use. While using, do not eat, smoke or drink. Wear protective clothing, gloves, and goggles. Do not use on surfaces intended for food, feed, potable water, livestock or dairy animals.

FIRST AID: If swallowed, do not induce vomiting. Call a physician immediately. In case of eye contact, flush immediately with plenty of water for at least 15 minutes and get medical attention. For skin, wash thoroughly with soap and water. Remove contaminated clothing and wash before reuse. Call a physician if any irritation persists.

Warning: This product contains chemicals known to the State of California to cause cancer and birth defects, or other reproductive harm. **NOTICE:** Reports have associated repeated and prolonged occupational overexposure to solvents with permanent brain and nervous system damage. Intentional misuse, by deliberately concentrating and inhaling the contents may be harmful or fatal.

KEEP OUT OF REACH OF CHILDREN.

DANGER! AVOID SPONTANEOUS COMBUSTION: Superdeck contains drying oils (linseed oil & tung oil). Rags, steel wool, roller covers, or any other waste soaked with Superdeck may spontaneously catch fire if improperly discarded. Immediately after each use, place rags, steel wool, roller covers, or any other waste in a sealed water-filled metal container.

CUSTOMER SERVICE 1-800-825-5382
(7:00 am-5:00 pm M-F PST)

Duckback Prod. Co. • Chico, CA 95927 •
www.superdeck.com

• ONE COAT COVERAGE

- ◆ Three Oil System with Tung Oil
- ◆ U.V. Protection
- ◆ Penetrates Deep into Wood
- ◆ Transparent Oxide Pigments
- ◆ Powerful Mildewcide
- ◆ Long Lasting Protection

**SATISFACTION
GUARANTEED!**

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Paint Overspray Case

- Insured's car damaged by contractor's spray painting activities
- Paint hard to photograph – adjuster took dozens of photos, only a couple showed damage
- Fine mist of paint – photos told a story





Miscellaneous Small Subro



**You will not be-leaf the difference
photos can make!**



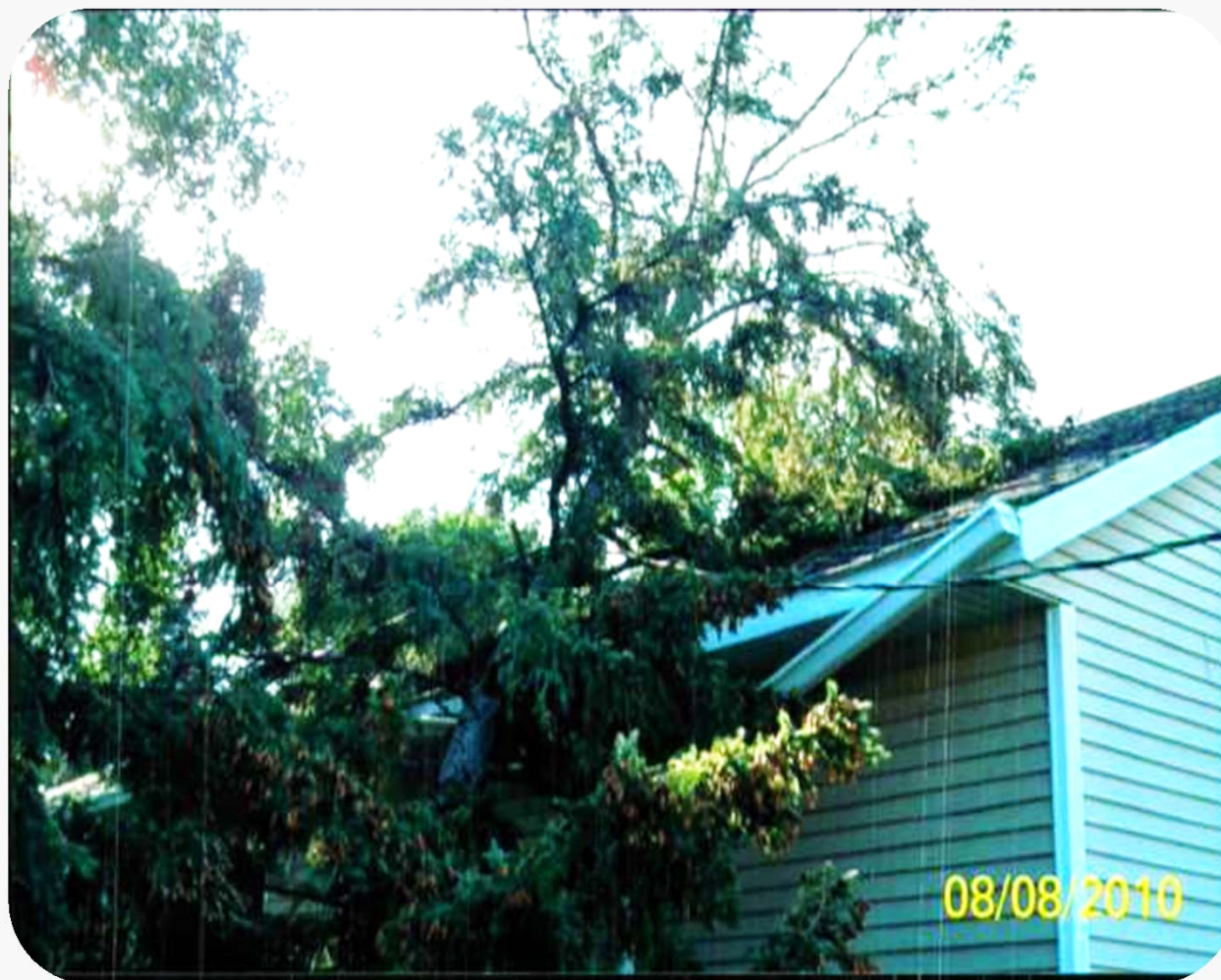












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Appliance Repair or Installation



Negligent Repair

Scenario:

- Insured hires company to repair washing machine hose-keeps popping off during regular use
- Technician noticed hose too short, pops off turning spin cycle
 - Replaces hose, clamps, uses duct tape to hold
 - Hose pops off again, resulting in water damage

Negligent Installation Activity

Scenario:

- Insured purchases refrigerator, pays for delivery and installation
- Technician uses wheeled cart to haul in refrigerator, scrapes linoleum floor

Small claims, no experts

What can you do with these claims?

- **Claim rep photos – back of the washing machine and close ups of the hoses, clear photos of linoleum. Does insured have photos??**
- **Who “repaired the repair” – did different company perform repair? Get written or R/S about 1st company’s liability**

Auto-Related

Truck hit electrical post

- **Delivery to insured's house**
- **Truck backed into electrical post**
- **Knocked down power lines, electrical surge**
- **Damage to residence**





Damage to the exterior of the house was obvious

- **“Fried” electronics available for inspection – but how to prove incident destroyed electronics?**
- **Photos of smoke on outlets persuaded opposing party to pay the claim**
 - **Proof of power surge!**

Oil Change resulting in fire!

Scenario:

- Insured has vehicle oil changed
- Facility doesn't fully tighten gaskets
- Oil drips into engine, causing small fire
- Insured drove less than 20 miles
- Oil change facility won't accept liability

Oil Change resulting in fire!

How can photos help?

- Take a photo of odometer
- Compare to oil change invoice – should show # of miles on odometer
- Send photo to facility or insurer – proof their work caused fire

Vandalism

Juvenile Vandalism

- **Photos will be primary evidence**
- **Good photos make it harder to dismiss the harm caused by vandalism**









Obtaining better photos

- **Claims professionals – if loss was recent, ask if scene still available for more photos**
 - **Shot of entire scene**
 - **Up close shot – focus is on cause of loss**
 - **Extreme close up – focus on product ID**

Digital = foolproof photos?

- **Make sure photos are clear as you take them – takes seconds!**
- **If possible, retain original digital images!**
 - Useful to provide to counsel to email
 - .jpeg is best format
 - .tif format is harder to share (can convert .tif to .pdf)
 - .jpeg can be enlarged easily for trial

ASK INSURED!

- **Out of control -recreational fire damage to insured's deck**
 - Adverse did not believe smoke “damaged” deck
 - Photos by adjuster showed “dirty” deck, but hard to prove previous condition
 - Insured had photos of party on deck taken one month prior – no smoke damage!
 - Insured's photos were worth thousands of dollars!

ASK REPAIRING CONTRACTOR!

- **Contractors often take photos before and during repairs**
- **Photos will most likely focus on cause of damage and be very useful for subro!**

Thank you!

Anamarie Reyes Kolden, Esq.

Yost & Baill, LLP

arkolden@yostbail.com



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