



# Contracts 101

Your blueprint to avoid TORT claims, litigation and the implied warranty laws, runs through CONTRACTS

***Welcome!***



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# Builders Warrant their work or not

- Implied Warranty Laws [court cases in your state]
- EXPRESS Written Warranty Contracts
- Caveat Venditor replaced Caveat emptor
- Courts intend to compensate victims, and level the playing field
- A builder's warranty risks being 'self serving'; and thus unenforceable

# Your legal options

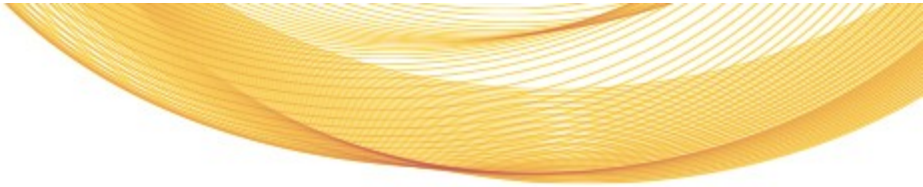
**It's one or the other**

- TORT [litigation]
- CONTRACT [ADR: conciliation followed by arbitration]

# FOUR KEY CONTRACTS

Warranty  
General Liability Insurance  
Subcontractor Agreement  
Sales Agreement

SOURCE for sample contracts:  
NAHB and your local/state HBA



# **There is no such thing as a JURY of your peers**

**Jurors are more familiar with a Hershey bar, than a rebar  
Courts are in the business of compensating victims**

- Litigation: resolved in a court, with jurors and uncertainty
- Arbitration is typically in the home, with a construction expert
- ONE of the above is much more expensive than the other
- One is private; the other is public and risks a builder's reputation

## **Summary of what you need to know (1-5)**

1. Builders warrant their work. Caveat Emptor is no longer the law.
2. Each state has implied warranty laws: court cases holding the builder responsible. The builder is responsible for what may go wrong, until the end of the Statute of Repose. The National average is 8-10 years.
3. Inconsistent contracts subject builders to potential TORT Claims.
4. It is a CONTRACT or a TORT. Tort is the lawyer's friend; not yours. TORT MEANS COURT.
5. FOUR key contracts will best protect you from TORT/litigation.

## **Summary of what you need to know (6-10)**

6. Litigation is expensive and public and an uncertain outcome. Arbitration is private and 10% of the cost.
7. Contracts articulate dispute resolution OTHER than litigation.
8. We use the Federal Arbitration Act. Good law for 95 years. We start with a proven conciliation process.
9. CLASS ACTION WAIVER LANGUAGE. US Supreme Court endorsed in April 2019.
10. A third party WARRANTY contract facilitates dispute resolution IN A CONTRACT by replacing implied warranty obligations. Beware the temptation to 'Do it yourself'. Courts do not like 'self-serving' documents, which can be viewed as limiting the rights of the innocent consumer.



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# General Liability

- Compare to the warranty contract
- USE professionals. Construction experts
- CG2294 is only one example of a form to fear
- Statute of Repose and Statute of Limitations
- Faulty workmanship
- Your work
- TORT versus Contract

***THANK YOU***



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