IT'S TIME TO BATTEN DOWN THE CONSTRUCTION SITE IN ANTICIPATION OF SEVERE WEATHER

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Hurricane season begins on June 1. Construction companies have a legal obligation to exercise reasonable care to protect and secure their job sites in anticipation of severe weather. Unsecured construction debris, tools, equipment or materials can be blown from the site and strike other property or persons. Taking reasonable precautions can help prevent or minimize liability.

A significant part of a construction company's storm preparation plan should be to secure or remove job site equipment and materials, including building supplies, equipment, tools, dumpsters, portable bathrooms, debris, fence signs and job signage, that can be tossed around or blow away in heavy winds.

Here are a few important tips:

- 24 to 48 hours before a storm makes landfall all construction activity should stop.
- If equipment, tools and supplies, such as lumber and roof tiles, cannot be secured indoors, they should be neatly stacked (not on roofs) and tied down or banded together.
- Heavy duty equipment and scaffolding should be properly secured to withstand expected wind conditions.
- Erected framework should be tied together to resist high winds.
- New landscaping should be braced.
- Portable toilets should be picked up by the rental company or weighed down with concrete block or sand bags placed on the floor and the doors secured.
- Netting should be placed on all trash containers that are not empty.
- Lids on dumpsters should be secured.
- Non-essential barricades should be removed, sandbagged or tied down.
- Construction vehicles and equipment should be moved inside, if possible.
- Tower cranes should be lowered and locked down.
- All windows and doors should be secured.
- Computers and office equipment should be disconnected.
- Electricity, water and gas to the site should be turned off.

It is essential for companies to review their plans to secure sites and equipment in case of a hurricane or tropical storm. In Florida, a negligence claim is one possible cause of action a party can assert if it is injured or suffers monetary damages because of a construction company's failure to properly secure a site before a storm. However, if a construction company takes reasonable steps taken to secure a construction site, it can not only protect its assets, but defend a negligence claim on the grounds it fulfilled, and did not breach, its duty of reasonable care.

If you have any questions regarding a contractor's liability to secure a construction site in the event of a hurricane, please contact Jeff Wertman of Berger Singerman's Dispute Resolution Team a jwertman@bergersingerman.com.

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