

8 Trends Influencing Commercial Construction Disputes & Litigation In 2026

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MARLTON, NJ, UNITED STATES, February 18, 2026 /EINPresswire.com/ -- In 2026, it is predicted by

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the American Institute of Architecture (AIA) that the construction industry will experience another year of limited growth, following a lackluster 2025. Although selective bright spots are anticipated for construction in healthcare, education, infrastructure and data centers, other areas such as the construction of office buildings, residential and retail are expected to experience slow or negative growth. As well, factors such as materials price increases, manpower shortages, tariff uncertainty and supply chain inconsistency, among others, continue to put pressure on starts, timetables and profitability for the U.S. construction industry.

Construction management thought leader James Gallagher, P.E., F.ASCE and Principal at Resolution Management Consultants said, “In the construction industry, inconsistency triggers disputes. With 2026 shaping up to be another unpredictable year on many levels, one phenomenon we anticipate with certainty is growth in the number of construction disputes.” Gallagher observed that an increase in the number of disputes doesn’t necessarily mean an escalation in litigation. “With the high cost of litigation, the manner in which disputes will be handled, with more being settled outside of the courtroom, will be an important trend in 2026,” he said.

Gallagher has identified the following factors he believes will have the greatest influence in generating or preventing disputes and litigation in the construction industry in 2026. They include:

- 1) Whether integrating artificial intelligence (AI) into management and operations will prevent or intensify disputes.
- Although the construction industry has been traditionally known as a low-tech industry, AI seems

to be entering construction at lightning speed. Having started to gain momentum in 2025, 2026 is likely to be the year that AI is broadly utilized in many areas of construction management and operation. In many applications, AI will be present but operating in the background, especially in key areas such as scheduling, maintenance and safety. It remains to be seen whether AI has the potential to improve accuracy, efficiency and proactivity in order to be a factor in reducing or eliminating disputes.

2) Expanding usage of BIM techniques will broaden communication, but will this reduce disputes?

In 2026, it is predicted that more companies, both large and small, will incorporate Building Information Modeling (BIM) techniques into their construction management. However, just because more people are planning and communicating

together doesn't necessarily mean that disagreements will diminish. That said, BIM techniques do have the potential to help identify disputes earlier in projects so that solutions can be developed earlier leading to earlier and less complicated resolution.

3) Will tariff and inflation inconsistencies increase the number of disputes?

Although there was much talk about tariffs in 2025, the actual effects will be felt in 2026. Because tariffs can affect prices, higher or lower, as well as product availability, they add a dispute initiator that had not been present in previous years.

4) Workforce uncertainties can lead to quality and timing disputes.

Workforce issues will continue to plague the construction industry in 2026. They consist of the industry having more job openings than there are candidates, and especially qualified candidates. The workforce shortage phenomenon has the potential to create disputes due to their effects on quality and timing issues.

5) Inconsistencies in the utilization of robotics and other advanced technology relating to expectations.

2026 will be a major year for the introduction of advanced technology such as drones, AI, Internet of Things (IoT) and other technological advances to construction. As many of these are new applications of technology to construction, there are bound to be some unexpected issues that will provoke disputes.



James F. Gallagher, P.E. F.ASCE, Principal at Resolution Management Consulting

6) Supply chain inconsistencies will continue to trigger disputes.

Over the last years, the supply chain for construction materials has been highly inconsistent. Supply and pricing of such key construction products as steel, timber, concrete and other key materials have been unpredictable. Although measures are being taken to gain more control over the construction supply chain, it appears that it will continue to be inconsistent in 2026.

7) Legal language and contracts have not been modernized to account for new privacy and technology issues.

In 2026, there continues to be potential for disputes over such issues as cybersecurity, force majeure, unauthorized access to proprietary data, data mismanagement and other issues. In the legal world, many potential AI and other technology issues have yet to be addressed and properly defined. Precedents have yet to be established. Modernizing contracts to define AI policy, information ownership, data management, utilization and other issues should be a priority in 2026 or the industry will continue to risk contract disputes.

8) So-called “expert witnesses” will be utilized outside of court in 2026.

The role of expert witnesses will evolve in 2026. Experts will be brought in earlier in the dispute process, more like consultants, to provide reports and testimony relating to cases. This phenomenon will help influence quicker, earlier settlements without having to go to court.

Said Gallagher, “Although we expect the number of disputes to grow in 2026, those cases proceeding to court should actually decrease, largely due to the time and cost needed to pursue litigation. We can expect to see an evolution in dispute resolution in 2026 where experts will be brought into the process earlier to be able to influence quicker and lower cost resolution.”

About Resolution Management Consultants, Inc.

Resolution Management Consultants, Inc. (RMC) is a nationally recognized consulting firm headquartered in Marlton, NJ. There are two sides to the business: the construction planning and management aspect – helping clients build more successful projects – and the litigation aspect – should matters go to court, providing analysis and testimony as expert witnesses. Founded in 1993 by veterans in the construction, contracting and engineering professions, RMC has assisted numerous private owners, public agencies and contractors in either achieving project goals or resolving cost and time disputes between the contracting parties.

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