

So, You Want To Get Sued?

By William J. Frey

In Puerto Rico, Law 173 was approved August 12, 1988 to regulate the professions of engineering, architecture, and surveying. Its purpose is described as follows:

"To protect life, health, and property and to promote the general public welfare, every person who exercises or offers to exercise the profession of engineer, architect or surveyor in Puerto Rico, whether in the public or private sector, will be obligated to present supporting evidence that the above mentioned is in compliance with this law so as to practice the professions of engineer, architect, or surveyor, that the above mentioned is inscribed in the official register of the Board, and that the above mentioned is an active member of the College of Engineers and Surveyors of Puerto Rico or the College of Architects of Puerto Rico depending upon the case."

The law then goes on to describe what is required for one to practice engineering in Puerto Rico. To be a licensed engineer, one must...

1. Have graduated from an accredited four year program in engineering and...
2. Have passed a written examination covering engineering fundamentals called the certification offered once a year by the Examining Board for Engineering, Architecture, and Surveying, and...
3. Be an active member of the College of Engineers and Surveyors of Puerto Rico.

An article printed in the *San Juan Star* (Oct. 17, 1994) by Michael Marrero makes the case that clients should seek only the service of licensed professional engineers if they wish to enjoy products and services that are safely and competently designed. The article makes the following points:

1. The College of Engineers and Surveyors of Puerto Rico (CIAPR) is “responsible for overseeing the legal and ethical practices of architecture, engineering, and land surveying.” Law 173 creates this responsibility.
2. “Only licensed professionals who are members of the...CIAPR can be held liable if there’s a problem due to a faulty design....”
3. “The Commonwealth of Puerto Rico requires that all construction projects be properly designed by registered architects and engineers in conformance to codes.”

Many engineering students reason that being a licensed engineer is a double-edged sword. On the one hand, one is legally recognized to practice engineering in Puerto Rico, and this brings with it prestige and substantial financial benefits. On the other hand, being a licensed engineer brings with it certain responsibilities: one must conform to codes, one must perform at the level of competence expected of a trained and professional engineer, and if one doesn’t then one can be sued. Consequently, some have argued, if it is feasible to practice engineering without a license then it is not a bad idea to do so.

Individuals in Puerto Rico have gotten around the licensing requirement by means of two illegal but common practices: "firmonería" (the blind approval of unsupervised work) or the use of corporate engineers.

Firmoneria: Each licensed engineer has his or her own seal that includes name, profession, series number, date of expiration, and the inscription, “Puerto Rico”.

(Artículo 13). "*Firmonería*" is illegal, since an engineer fixes his or her seal to work that is done by another who has not been immediately and responsibly supervised.

"(e) To sign or certify with a seal whatever plan, drawing, specifications, studies, mediations or whatever other instrument of professional service that which has not been prepared by the above mentioned or under his immediate and responsible supervision, or on those which would appear under the title of engineer, architect or surveyor, the names of persons who are not correctly authorized to exercise those profession in Puerto Rico" (Article 16-e)

The code of ethics of the College of Architects and Surveyors de Puerto Rico says the following about *firmoneria*:

"They [architects or surveyors] will not approve, frank, stamp or certify, accordingly, nor authorize the presentation of plans, specifications, calculations, decisions, memos or reports that have not been prepared by them or done under their direct responsibility."

The use of corporate engineers is an attempt to work around the license requirement and is a variation on the theme presented by *firmoneria*. A corporation is itself recognized as a licensed engineer which places its seal upon the work of its employees who, purportedly, it has properly supervised. But the Puerto Rico Supreme Court in the case of CIAPR vs. The Water and Sewer Authority and Metcalf & Eddy ruled that this is not allowable under law 173. Underlying this ruling is the idea that corporations are not natural persons and cannot therefore perform engineering functions. The locus of responsibility in civil law cases is and must remain natural individuals.

Questions:

1. Should one work to get a license to practice engineering in Puerto Rico if this makes one more vulnerable to law suits?
2. Some have argued that the CIAPR, like many professional societies, really exists only

to promote the self-interest of its membership. The claim that it works to regulate engineering practice for the public good is merely window dressing. Respond to this claim.

3. Is the practice of "firmoneria" morally wrong in all situations? Under what situations is it wrong? Why? Under what situations would it be helpful, if, indeed, you recognize this possibility?
4. What should be the purposes of the CIAPR? Should it only be concerned with disciplining engineers who violate professional and legal standards? What other ways could the society help improve engineering practice?