



PV ModuleTech 2026

Renewable Litigation

*Lessons Learned and
Best Practices for
Co-Located Battery Storage*

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- Construction lawyer by training
 - Regularly working on complex disputes with multiple expert witnesses
 - Negotiate contracts
- Extensive work in renewables
 - Warranty disputes—both modules and trackers
 - Battery disputes
 - Windfarm construction disputes
 - Inverter dispute
 - And others



Topics Covered

- The inevitability of warranty claims
- Manufacturers have two default responses
- How warranty claims turn into warrant disputes
- Each parties' arguments can be predicted now
- Actionable advice

Warranty claims are inevitable

- Thirty years is a really, really long time
- Reliability and manufacturing processes get better all the time, but innovation happens all the time too
- Even if the modules and batteries are fine, other things will break and the only thing(s) still under warranty will be blamed
- Just because claims are inevitable, disputes are not

Manufacturers have two choices

- I want your future business
- I don't care much about your future business

Claim is made, what happens?

- OEM: "Please provide us the following data"
- Owner: "That's a lot of data. Why don't we provide this instead."
- OEM: "Can you provide us the data we asked for?"
- Owner: "We already provided a ton of information, they must be looking for an excuse to deny our claim."

[lawyers get inserted into the conversation (if they weren't already); things get worse]

The dispute will center around exclusions

- Improper installation
- Improper maintenance
- Improper operation
- Bad weather or *force majeure* (events outside of everyone's control)
 - *Force majeure* is most often defined in the contract—generally requires a level of unpredictability

Things to keep in mind

- Lawyers are not technical specialists—so you're inevitably going to have to deal with some stupid arguments
- The burden of proof at trial is "a preponderance of the evidence" or 50.1%
- The lawyers defending manufacturers often act like a criminal defense attorney—where the standard is "beyond a reasonable doubt"—so they hope to raise a reasonable doubt in the mind of the ultimate decision maker

Common ancillary issues

- Allegation that the complaining party has not actually proven it is the modules or the batteries
- Companies are often trying to keep LCOE as low as possible, but that can sometimes result in predictable corners being cut

What else contributes to the disputes?

- Warranties are often viewed as black and white documents
- The real world is anything but...
 - Some years are really sunny, some are not
 - Some years have a lot of inverter downtime, some do not
 - Some years have a lot of tracker downtime, some do not
- Increased adoption = more disputes and less sophistication in the marketplace

Actionable Advice

- Good document management practices are imperative
 - The **WARRANTY** (and make sure it's the right one)
 - The contract, and all of the exhibits, whether attached or "incorporated by reference"
 - Any commissioning records / tests / certificates
 - Any inspection records
 - Maintenance records
 - If maintenance happened, but isn't documented, did it actually happen?
 - Operational data

Actionable Advice Continued

- Who is the warranty holder?
 - Did the warranty properly transfer after construction or the sale of an asset?
- Operators need to merge their standard O&M practices with whatever is required by the various manufacturers
- When a claim presents itself, be ready to move quickly (but without spoliating evidence)—remember the manufacturers two choices

Actionable Advice Continued

- Clauses all warranties should have:
 - A requirement that technical representatives meet in person
- Clauses you should consider with all warranties:
 - Some amount of unit-by-unit testing instead of system-level data
 - Who does the testing (one of the parties or a third party)?
 - What percentage of modules or batteries need to be tested
 - You want reasonable specifics, but also flexibility in implementation given the time horizon
- A good engineer is worth their weight in gold

QUESTIONS?

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