

Critical Issues on the Agenda

9:00 AM – 10:10 AM **Overview of Liens and What to Do When the Project Appears to Be in Trouble**

— *Joseph Cosentino*

- The Lowdown on Liens
- The Critical Time Lines Under the Construction Lien Act
- Registration Defects
- Liens and Insolvency Issues

10:10 AM – 10:25 AM **Break**

10:25 AM – 11:30 AM **Lien Priorities: Mortgages, Unions, Judgments and Secured Creditors**

— *Neil S. Abbott*

11:30 AM – 12:30 PM **Recent Developments in the Law of Tender**

— *Jeffrey A. Armel*

12:30 PM – 1:30 PM **Lunch (On Your Own)**

1:30 PM – 2:40 PM **Trust Fund Obligations**

— *Donald E. Short*

- Role of Trust Funds Under the Construction Lien Act
- Trust Fund Rights vs. Lien Rights: the Differences and Why It's Important
- Getting It Right: The Scope of a Trustee's Obligations and Ensuring Proper Application of Project Funds
- Proactive Advice for Avoiding Personal Liability for Breach of Trust Obligations

2:40 PM – 2:55 PM **Break**

2:55 PM – 4:00 PM **The Process of a Lien Trial From Registration of the Lien Through the End of the Trial Incorporating the Relevant Provisions of the Lien Act**

— *Jennifer Leitch*

4:00 PM – 4:30 PM **Questions and Answers**

— *Neil S. Abbott, Jeffrey A. Armel,
Joseph Cosentino, Jennifer Leitch and
Donald E. Short*

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the agenda and the faculty when circumstances are beyond our control.*

Attendee comment from another Lorman seminar:

**“This was a great experience and very helpful
for workplace situations.”**

— *Julie Pueringer*

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The Benefits for You

By attending this seminar, you will receive helpful strategies on what to do when your construction project appears to be in trouble. You will gain a clear understanding of lien priorities. You and your company will also stay current on issues surrounding developments in the law of tender. You will receive helpful information on trust fund obligations as well as the process of a lien trial from registration of the lien through the end of the trial.

In One Day, You'll Learn:

- What to do when a project appears to be in trouble
- The ins and outs of lien priorities from judgments to secured creditors
- The role of trust funds under the construction lien act
- Proactive advice for avoiding personal liability for breach of trust obligations
- The process of a lien trial from registration to the end of the trial

Learning Objectives:

- The attendee will be able to review critical time lines under the Construction Lien Act.
- The attendee will be able to recognize the differences between trust fund rights and lien rights.
- The attendee will be able to discuss incorporating relevant provisions of the lien act into the lien trial process.

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Our Distinguished Faculty

Neil S. Abbott is a partner in the Financial Services Department in Gowling Lafleur Henderson LLP's Toronto office. He is the national chair of Gowling's Construction Law Practice Group and is the leading practitioner of construction law in the Toronto office. Mr. Abbott's area of focus includes negotiating and drafting construction contracts, tenders and bidding, enforcement and prosecution of liens, including trial of actions across the province. He provides construction management advice that includes termination of contracts and retention of completion contractors. Mr. Abbott has litigated claims on labour and material payment bonds, performance bonds and bid bonds. He has assumed construction liens in the course of receiverships and regularly provides advice to lenders on the priority between lien claimants and mortgagees. Mr. Abbott is an executive member of the Construction Law Section of the Ontario Bar Association. He is a frequent lecturer at Osgoode Hall Law School and an avid speaker and presenter. In 2006 Mr. Abbott was ranked as one of the best construction lawyers in Canada by *The Best Lawyers in Canada*, 2006. He was called to the bar of Ontario in 1992. Mr. Abbott received his law degree from Osgoode Hall Law School. He is also a graduate of Huron College at The University of Western Ontario and Upper Canada College.

Jeffrey A. Armel is a partner with Goldman Sloan Nash & Haber LLP in Toronto. Mr. Armel's practice area focuses on litigation with an emphasis on construction law. His construction law practice involves interpreting major contracts, lien litigation, breach of trust actions and resolving disputes for owners, general contractors, subcontractors and material suppliers. Mr. Armel is a frequent seminar speaker and panelist at legal education seminars and has contributed articles to several publications. He earned his B.A. degree, with honours, from York University and his LL.B. degree from Osgoode Hall Law School. Mr. Armel is a member of the executive of the Construction Law Section of the Ontario Bar Association, the Toronto Construction Association and the Law Society of Upper Canada.

Joseph Cosentino is a partner with Goodmans LLP in their Toronto office. Mr. Cosentino focuses on litigation with an emphasis on construction law and energy disputes. His construction law practice involves negotiating major contracts, lien litigation and resolving disputes for owners, general contractors, subcontractors, material suppliers and lenders. Mr. Cosentino's practice also involves a broad range of commercial litigation matters. He has handled a variety of claims and disputes in connection with municipal utilities. He is a frequent speaker and contributor to a number of industry trade conferences and publications. Mr. Cosentino is also the editor of the *Goodmans' Construction Law Update* newsletter and has authored a number of articles. He earned his B.A. (honours in political science and history) and M.A. (history) degrees from the University of Toronto and his LL.B. degree from Osgoode Hall Law School. Mr. Cosentino is a member of the Toronto Construction Association, the Canadian Bar Association of Ontario and the Advocates Society.

Jennifer Leitch is a lawyer with Goodmans LLP. Ms. Leitch focuses on commercial litigation with an emphasis on construction law. Her practice involves acting for owners, general contractors, subcontractors, materials suppliers and lenders in construction disputes. Ms. Leitch is regularly consulted on contract issues, lien matters and claims involving design professionals. She served on the board of directors of Justice for Children and Youth, a Toronto legal clinic, from 1999 to 2005. Ms. Leitch earned her B.A. and LL.B. degrees from Dalhousie University. She is a member of the Canadian Bar Association of Ontario and the Advocates Society.

Donald E. Short, a partner with Fasken Martineau DuMoulin LLP, is certified by the Law Society as a specialist in civil litigation and construction law. He is engaged in the practice of commercial and construction litigation as well as a broad range of insolvency-related matters. In addition, Mr. Short has been actively involved in the implementation of ADR in Ontario courts. He is an elected fellow of the Canadian College of Construction Lawyers and is listed in the *Euromoney Guide* to the world's leading experts in arbitration. Mr. Short has been recognized by *Lexpert* as a recognized expert in the fields of both construction and arbitration. He has acted as mediator on major construction disputes involving parties such as the Municipality of Metropolitan Toronto. Mr. Short has acted as counsel in major arbitrations and recently served as chair of an arbitration tribunal appointed by the International Chamber of Commerce dealing with a dispute between American and German companies. He served for a number of years as an elected member of the executive of the Ontario Branch of the Canadian Bar Association. He has chaired a number of construction programs, including the Annual Construction Superconference and Construct Canada. Mr. Short has lectured at the Bar Admission Course and has chaired and participated in a number of law society and Canadian Bar Association CLE programs, including the annual Operation Update program since 1991. Mr. Short holds an LL.M. degree from Osgoode Hall Law School, an FCIArb designation from The Chartered Institute of Arbitrators and is a charter arbitrator of the ADR Institute of Canada.

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General Information

Toronto, ON • September 27, 2007

Doubletree International Plaza Hotel Toronto Airport • 655 Dixon Road

Registration: 8:30 am – 9:00 am • Session: 9:00 am – 4:30 pm

Lunch Break: 12:30 pm – 1:30 pm (On Your Own)

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Faculty: Bill Gillan, P.Eng., Matthew Nicholas, B.Sc. (B.E.), M.Eng., Revay and Associates Limited; Carlo Greco, P.Eng., J.D., Joel Heard, B.Com., J.D., Jutras Greco Heard LLP; Donald E. Short, B.A. (Hons.), LL.B., LL.M., FCI Arb., Fasken Martineau DuMoulin LLP. ©2006. 186 pages.

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Faculty: Moderator: Joel A. Heard, B.Com., J.D., Jutras Greco Heard LLP; Charles J. Caza, B.A.Sc.Eng, LL.B., AMEC; Carlo Greco, P.Eng., J.D., Jutras Greco Heard LLP; Tony R. Linardi, LL.B., Golder Associates Ltd.; Donald E. Short, B.A., LL.B., LL.M., FCI Arb, Fasken Martineau DuMoulin LLP. ©2007. 182 pages.

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Faculty: Moderator: David C.K. Tang Gowling Lafleur Henderson LLP; Stephen J. D’Agostino, Thomson, Rogers; Tamara Farber, Miller Thomson LLP; Rosa Mauro, Gowling Lafleur Henderson LLP. ©2007. 164 pages.

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Toronto, ON
September 27, 2007

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Gowling Lafleur Henderson LLP

Jeffrey A. Armel

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