AGAINT THE ODDS – Risk and the Canadian Construction Industry

Lexpert Presents

The Toronto course is being held on November 13-14, 2006 at:
The St. Andrew’s Club and Conference Center, Room L2, 150 King Street West, 27th Floor, Toronto, ON, M5H 1J9, Tel: (416) 366-4228

Lexpert is a national publisher and conference organization. You are welcome to visit our website at www.lexpert.ca.

This is a “MUST ATTEND” if you are a:

• CEO
• CFO
• COO
• General Counsel
• Project Manager
• Architect
• Engineer
• Electrical Contractor
• Mechanical Contractor
• Subcontractor
• Construction Lawyer

Robert F. Scott’s last message found after his fatal attempt at the South Pole was this: “We took risks, we knew we took them; things have come out against us, and therefore we have no cause to complain”. Are you taking potentially fatal risks in following outdated procurement practices and procedures. The law has moved on, have you?

Cancellation and Refund Policy:

Full refunds, less a $150.00 plus GST ($9.00) administration fee, will be given to registrants received in writing 30 days before the conference start date. Unfortunately, refunds cannot be provided after this date. Substitutions are granted with notification to Course Registration Customer Service.

To Register:

1. Call: Toll free 1-800-342-6288 ext 5882, 1-416-609-5882, Eman Aboelsaud

2. Fax: 1-416-609-5841, Eman Aboelsaud

3. E-mail: eman.aboelsaud@thomson.com

4. Mail: Lexpert
   One Corporate Plaza
   2075 Kennedy Road, 11th Floor
   Toronto, ON M1T 3V4
   Attention: Eman Aboelsaud

Dates and Venues:
The Calgary course is being held on November 6-7, 2006 at:
Calgary Telus Convention Centre, 120 - 9th Avenue SE, Calgary, AB T2G 0P3, Tel: (403) 261-8500

The Toronto course is being held on November 13-14, 2006 at:
The St. Andrew’s Club and Conference Center, Room L2, 150 King Street West, 27th Floor, Toronto, ON, M5H 1J9, Tel: (416) 366-4228

Lexpert is a national publisher and conference organization. You are welcome to visit our website at www.lexpert.ca.

CONFIRMATION FORM

CONFIRMATION FORM

REGISTRATION FORM

REGISTER before Oct. 2 and Save $270! For more information or to register, please contact Eman Aboelsaud Toll free at 1-800-342-6288 ext. 5882 or e-mail eman.aboelsaud@thomson.com
DAY 1

9:00  INTRODUCTION

DAY 2

9:00  WORKSHOP #1: Avoiding Conflict vs. Managing Conflict

10:30 Refreshment Break

10:45 Risks Arising During the Course of Construction

10:30 Refreshment Break

3:30 Third party contracts:
- Insurance: what does the market offer; what are the exclusions and limitations?
- Bonds: what does the market offer; what are the limitations of surety bonds?
- Subcontractor default insurance: what is it and does it work?
- Court imposed solutions:
  - Good faith/bad faith in negotiation and contract performance
  - Economic loss for beginners

Delegates Open Forum

4:15

DAY 3

10:30 Networking Luncheon

12:00 Dispute Resolution Risks

1:15

Complex procurement problems are often solved with the implementation of processes that drive solutions and resolutions. What are these processes? Do they work? Are there alternatives?

The changing role & responsibility of consultants
- Traditional and non-traditional roles
- The effect of procurement models on the role of the consultant
- Their contracts, limitations and exclusions
- Effect of joint liability

Dispute Resolution models
- Standard form, multi-tier dispute resolution, its pros and cons
- Writing and enforcing notice provisions
- Arbitration and its consequences
- Adjudicative models
- DRB/DAB pros and cons
- Expert determination
- Adjudication on the European model

Third party contracts:
- Insurance: what does the market offer; what are the exclusions and limitations?
- Bonds: what does the market offer; what are the limitations of surety bonds?
- Subcontractor default insurance: what is it and does it work?
- Court imposed solutions:
  - Good faith/bad faith in negotiation and contract performance
  - Economic loss for beginners

3:30

How is it that risk to be priced? Who is best able to bear that risk?

• Late design
• Commodity price fluctuations
• Physical changes: access, methodology, dewatering and other subsurface phenomena
• Scope growth and schedule slippage
• Subtrade default and insolvency
• Financing concerns
• Force Majeure and political risks
• Design errors

3:30

Howard Wise
Partner, Goodmans LLP
Howard is a partner with Goodmans LLP specializing in the areas of construction law and commercial litigation. Howard is retained as counsel by owners, general contractors, subcontractors, material suppliers and lenders in large construction claims and warranty claims. Howard litigation practice includes trial and appellate work, as well as mediatation and arbitration of construction disputes. He has also acted for owners and contractors in negotiating complex construction contracts including design build agreements, alternate finance agreements and EPC Contracts. Howard is the author of the Manual of Construction Law, co-author of Construction, Builders and Mechanics Liens in Canada (7th Edition), both published by Carswell, and is a contributing author to Construction Disputes Representing the Contractor (Aspen Publications, New York). Howard is a Founding Fellow of the Canadian College of Construction Lawyers, and is past Chair of the Canadian Bar Association Construction Law Subsection.

Bruce Reynolds
Partner, Borden Ladner Gervais LLP
Bruce Reynolds is the National Leader of the Construction Law Practice Group of Borden Ladner Gervais LLP. He focuses his practice on both the contentious and non-contentious aspects of construction and surety law. He is the co-author of the test Scott and Reynolds on Surety Bonds (Carswell, 1993). He is also a co-author of Construction, Builders and Mechanics Liens in Canada, 7th Edition (Carswell, published 2005). Mr. Reynolds is a member of the Board of the Surety Association of Canada and a past member of the Executive of the GDA Construction Law Section. He was a member of the Executive of the Construction Law Section of the ABA for over ten years, including two years as Chair of the Construction Law Section of the ABA. He is an Affiliate Member of the ABA and a former Vice-Chair of the Torts & Insurance Practice Section of the ABA. He is also a member of the ABA’s Forum on the Construction Industry. Mr. Reynolds was a Founding Fellow of the Canadian College of Construction Lawyers. He has served on the Board of Governors of the College for nine years, and served as President of the College for 2002-03. In 2005 Mr. Reynolds became a Member of the Chartered Institute of Arbitrators.

Duncan Glaholt
Partner, Glaholt LLP
Duncan W. Glaholt is the founder and partner of the nationally recognized construction law firm of Glaholt LLP. This firm is consistently rated one of the province’s most highly recommended construction law practices.
Mr. Glaholt is an experienced arbitrator and mediator and is a member of the Chartered Institute of Arbitrators. He is certified as a Specialist in Construction Law by the Law Society of Upper Canada. He is the author of Construction Trusts and Conduct of a Law Action, co-author of the annual Annotated Construction Law Act and co-author of Construction Builders’ and Mechanics’ Liens in Canada, Briston, Glaholt, Reynolds & Wise. Mr. Glaholt is currently a Governor, Founding Fellow and Immediate Past President of the Canadian College of Construction Lawyers. Mr. Glaholt is a frequent speaker, mediator and arbitrator and sits as Vice-chair of the William Osler Health Centre.

Howard Wise
Partner, Goodmans LLP
Howard is a partner with Goodmans LLP specializing in the areas of construction law and commercial litigation. Howard is retained as counsel by owners, general contractors, subcontractors, material suppliers and lenders in large construction claims and warranty claims. Howard litigation practice includes trial and appellate work, as well as mediation and arbitration of construction disputes. He has also acted for owners and contractors in negotiating complex construction contracts including design build agreements, alternate finance agreements and EPC Contracts. Howard is the author of the Manual of Construction Law, co-author of Construction, Builders and Mechanics Liens in Canada (7th Edition), both published by Carswell, and is a contributing author to Construction Disputes Representing the Contractor (Aspen Publications, New York). Howard is a Founding Fellow of the Canadian College of Construction Lawyers, and is past Chair of the Canadian Bar Association Construction Law Subsection.

Bruce Reynolds
Partner, Borden Ladner Gervais LLP
Bruce Reynolds is the National Leader of the Construction Law Practice Group of Borden Ladner Gervais LLP. He focuses his practice on both the contentious and non-contentious aspects of construction and surety law. He is the co-author of the test Scott and Reynolds on Surety Bonds (Carswell, 1993). He is also a co-author of Construction, Builders and Mechanics Liens in Canada, 7th Edition (Carswell, published 2005). Mr. Reynolds is a member of the Board of the Surety Association of Canada and a past member of the Executive of the GDA Construction Law Section. He was a member of the Executive of the Construction Law Section of the ABA for over ten years, including two years as Chair of the Construction Law Section of the ABA. He is an Affiliate Member of the ABA and a former Vice-Chair of the Torts & Insurance Practice Section of the ABA. He is also a member of the ABA’s Forum on the Construction Industry. Mr. Reynolds was a Founding Fellow of the Canadian College of Construction Lawyers. He has served on the Board of Governors of the College for nine years, and served as President of the College for 2002-03. In 2005 Mr. Reynolds became a Member of the Chartered Institute of Arbitrators.

Duncan Glaholt
Partner, Glaholt LLP
Duncan W. Glaholt is the founder and partner of the nationally recognized construction law firm of Glaholt LLP. This firm is consistently rated one of the province’s most highly recommended construction law practices.
Mr. Glaholt is an experienced arbitrator and mediator and is a member of the Chartered Institute of Arbitrators. He is certified as a Specialist in Construction Law by the Law Society of Upper Canada. He is the author of Construction Trusts and Conduct of a Law Action, co-author of the annual Annotated Construction Law Act and co-author of Construction Builders’ and Mechanics’ Liens in Canada, Briston, Glaholt, Reynolds & Wise. Mr. Glaholt is currently a Governor, Founding Fellow and Immediate Past President of the Canadian College of Construction Lawyers. Mr. Glaholt is a frequent speaker, mediator and arbitrator and sits as Vice-chair of the William Osler Health Centre.