December 3 & 4, 2013, Toronto

8th Construction Claims

Avoiding and mitigating complex construction claims

Workshop Included: Practical Strategies for Litigation Preparation

“Very practical, numerous examples.”
“Clear, concise, informative.”
“Very informative, good level of detail.”
“Very well presented and informative.”

Participating Organizations

Aon Reed Stenhouse Inc.
Borden Ladner Gervais LLP
City of Brampton
City of London
Dentons Canada LLP
Goodmans LLP
Gowling Lafleur Henderson LLP
McLauchlin & Associates
McMillan LLP
MMM Group
Surety Association of Canada

Who Should Attend

Construction Executives, Owners, Developers, General Contractors, Subcontractors, Suppliers, Project Managers, Architects, Designers, Engineers, Financiers, Insurers, Construction Lawyers & Consultants

Course Highlights

• Protecting yourself against construction defect claims
• Dealing with construction liens
• Construction arbitration: avoiding potential problems with standard contract clauses
• Capacity, responsibility and claims: the latest on surety bonds and insurance markets
• What not to do when conducting an arbitration
• How to recognize and safeguard against unfair practices and improper claims in delay claims and change orders

Course Leader

Joseph Cosentino, Goodmans LLP
Neil S. Abbott, Gowling Lafleur Henderson LLP
Kenneth W. Crofoot, Goodmans LLP
Joann Brnjas, Surety Association of Canada
Andrew Gurlesky, McLauchlin & Associates
Maurice Audet, Aon Reed Stenhouse Inc.
Sharon Vogel, Borden Ladner Gervais LLP

Applicable toward CPD Requirement

Maurice Audet, Aon Reed Stenhouse Inc.
FACULTY

COURSE LEADERS

JOSEPH COSENTINO
Joseph Cosentino is a Partner at Goodmans LLP. He practices litigation with an emphasis on construction law, contracts and commercial litigation. His construction law practice involves negotiating major contracts, lien litigation and resolving disputes.

KAREN B. GROULX
Karen Groulx is a Partner in the Construction, Litigation and Real Estate groups at Dentons Canada LLP. Her practice includes negotiation and drafting construction documents as well as dispute resolution and litigation.

NEIL S. ABBOTT
Neil Abbott is a Partner at Gowling Lafleur Henderson LLP. He is the founding chair of the Firm’s National Construction Practice Group.

MAURICE AUDET
Maurice Audet is Senior Vice President and Regional Resource Leader, Risk Research & Solutions at Aon Reed Stenhouse Inc.

JOANN BRNJAS
Joann Brnjas is the Director of Member and Stakeholder Services at the Surety Association of Canada. She serves the surety industry by responding to educational needs of stakeholders.

KENNETH W. CROFOOT
Ken Crofoot is a Partner in the Litigation Group at Goodmans LLP. He has expertise in commercial, construction, banking and insolvency litigation.

ANDREW GURLESKY
Andrew Gurlesky is a Partner at McLauchlin & Associates. He has over 25 years of legal experience advising and assisting clients in the construction industry.

JOY JACKSON
Joy Jackson is Risk Manager with the City of London, specializing in operational risk.

RONALD PETERSEN
Ronald Petersen is a Partner at McMillan LLP. He is a senior litigator whose primary area of practice has been Construction Law for more than 25 years.

RAJIV RATTAN
Rajiv Rattan is Senior Program Manager at MMM Group looking after Transportation/Buildings Projects with GTAA, TTC and York Region.

DEBORAH TRACOGNA
Deborah Tracogna is the Risk and Insurance Manager for the Corporation of the City of Brampton. She is responsible for the administration and effectiveness of the City’s Insurance and Risk Management Programs.

SHARON VOGEL
Sharon Vogel is a Partner at Borden Ladner Gervais LLP. She is the Regional Leader of the Firm’s International Construction Projects Group. Sharon practices construction and surety law.

CO-LECTURERS

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COURSE PROGRAM

LEADING TYPES OF CLAIMS

Parties to a construction dispute must often choose between inconsistent claims, defenses & remedies. This session will increase your familiarity with the leading types of construction claims so that you can spot potential claim situations and select appropriate remedies or defenses.

- The hit list: the most frequently encountered construction claims
- Legal categories of claims
- Categorizing remedies
- Initial claim evaluation: performing a claim analysis and assessment
- Best practices in selecting solutions to resolve claims situations

LATEST ISSUES IN DEALING WITH CHANGE ORDER, DELAY AND ACCELERATION CLAIMS

More disputes arise because of actual or perceived changes in a construction project than for any other reason. This session will review:

- Common types of changes that result in change order, delay and acceleration claims
- Dealing with these claims from the contractor and owner point of view
- Advancing claims despite failing to give required notice
- Strategies for requesting and proceeding with changes
- Assessing and quantifying the scope and schedule implications of changes

SUPPLEMENTARY COURSE MATERIAL

Federated Press is now providing delegates with access to an innovative new database containing at least 25 interactive multimedia presentations by leading experts including approximately 20 hours of lectures on the topics covered by this course, including all slides and speakers’ papers. See the list of presentations on page 4.

AV Proceedings
Audio/video segments clickable slide by slide
Papers and overheads also included
Print any of the material for your own use
COURSE PROGRAM

INSURANCE COVERAGE ISSUES IN CONSTRUCTION CLAIMS
Understanding the current insurance market, coverage options and policy exclusions is essential for your protection, as mistakes here can have disastrous consequences for owners and contractors. This discussion details the current state of the market and how to maintain sufficient coverage.

• Understanding the latest trends and issues in insurance underwriting
• What you need to know to get the coverage you need
• Critical advice for dealing with denial of coverage after the contract is awarded
• Practical strategies for managing your risks

CONSTRUCTION RISK ALLOCATION IN CONTRACTS
Effectively apportioning responsibility on a complex construction project is a difficult task. If done properly, it paves the way to a good working relationship between contracting parties, however, if not, it can lead to expensive project delays or litigation. This discussion details the process for allocating risks in construction projects.

• Who is in charge of what on the project: identifying areas of responsibility
• Multiple contractors on one site: who is responsible for what?
• Tips for allocation of risk in standard form contracts for different project delivery systems

DEALING WITH CONSTRUCTION LIENS
Construction liens are one way for contractors and suppliers to deal with lack of payment. For owners, a lien has the potential to bring the project to a standstill or to force payment. This discussion details practical tips on both conducting a lien action and defending or dealing with a lien claim.

• An update on the recent amendments to the Construction Lien Act
• Construction liens from the claimant’s perspective: how to register and enforce your lien
• Construction liens from the owner’s perspective: how to defend or discharge a lien claim
• Important potential pitfalls for both the claimant and the owner

NEGOTIATING AND MEDIATING DISPUTES
Construction claims can be among the most complex and expensive disputes to pursue in litigation or arbitration. As such, it often makes sense to resolve these disputes before they escalate. This session will examine negotiation and mediation options that can get results and keep you from permanently damaging ongoing working relationships.

• Top alternative dispute resolution options
• Interest-based negotiations in construction disputes
• Using expert opinions to your best advantage
• Latest developments in construction dispute mediation
• Do’s and don’ts of successful mediation
• How to protect your interests in settlement negotiations

LOSS OF PRODUCTIVITY CLAIMS
Measuring and proving loss of productivity due to construction project changes is difficult, but this has not slowed the number of claims being filed. This presentation will provide you with a practical view on how to assess and deal with loss of productivity claims.

• Identifying core productivity and performance indicators
• Measuring performance against project baselines
• Methods for measuring loss of productivity

MEASURING AND COMPARING PLANNED VS. ACTUAL PRODUCTIVITY
• Theory and the reality of practice

DEALING WITH THIRD-PARTY CLAIMS FROM CONSTRUCTION OPERATIONS
There are a lot of third-party claims involving injuries on construction sites, making your legal obligations to third parties, such as contractors, construction workers or building tenants, difficult to ascertain. This session will examine actions that you can take to minimize third-party liabilities.

• Importance of contractor selection
• Including third-party exclusions in your client contract
• Third-party-reliance provisions: avoiding third-party reliance on a research report
• Client & contractor insurance provisions
• Key duties: safety related duties, engineer’s inspection duties

THE LATEST ON SURETY BONDS
An increasing number of large private projects now require surety bonds, which are mandatory for public projects. This session will provide a review of the concepts and principles of construction surety bonds and discuss:

• Surety bond options and why they differ from other forms of security
• The surety industry’s response to changing needs
• What surety companies do behind the scenes before writing a bond and before paying a claim
• What’s happening in construction claims

DOCUMENTING A CONSTRUCTION CLAIM
Project records and documentation are the most critical element in a successful claim, as written agreements and documentary evidence will almost always outweigh oral evidence and alleged verbal agreements. This presentation will discuss documentation and record keeping best practices that will play a huge role in resolving a construction claim.

• Maintaining all bid documentation and pre-contractual agreements, representations and understandings in writing
• Keeping all project correspondence, plans and drawings
• Establishing the chronology of events from multiple sources
• E-discovery: tapping into electronic documentation to make your case
• Taking pictures or videos at all stages of the project
• Documenting the causes and additional costs related to a potential claim

WORKSHOP

PRACTICAL STRATEGIES FOR LITIGATION PREPARATION
Litigation is a time-consuming and expensive process. However, the better prepared you are for it, the stronger and better informed your position will be to proceed to trial or to negotiate a settlement. This interactive workshop will walk you through the complex world of construction claims focusing on real life examples.

• How to identify early on issues that may lead to disputes/claims
• How to be ready for the last resort: litigation
• How to resolve claims amicably without incurring huge legal fees, prolonged settlement time
• What needs to be done by owners, consultants, engineers and contractors to avoid claims
Your registration includes an interactive multimedia CD-ROM comprising the following presentations from recent Federated Press courses and conferences. They are presented in their entirety with complete audio and accompanying slides.

For an additional $175 to the registration fee, you can receive the multimedia proceedings of this course on CD-ROM, containing all presentations given at this event. If not registered for the event, the cost of this CD, is $599.

To receive the presentations described below as well as the presentations given at the event, the cost is $799.00.

Dealing With Impact: Loss of Productivity Claims
Matthew Nicholas
Reavy and Associates Limited

Dispute Early Warnings
Giffin Koerth Forensic Engineering

Dealing With Construction Liens
Paul Ivanoff
Osler, Hoskin & Harcourt LLP

Quantifying the Claim
Stephen O. Reavy
Reavy and Associates Limited

Litigation Preparation Strategies
Patricia L. Morrison
Borden Ladner Gervais LLP

Documenting a Construction Claim
Harold Dorbin
Marsh USA Inc.

Change Orders, Delay & Impact Claims
Harold Dorbin
Marsh USA Inc.

Insurance Coverage Issues
William (Bill) Forsyth
Marsh Canada Limited

Leading Types of Claims in the Construction Industry
Jeffrey D. Vallis, Q.C.
Borden Ladner Gervais LLP

Construction Risk Allocation in Contracts
Suzanne England
Reavy and Associates Limited

Negotiating and Mediating Disputes
James Dykes
Public Works & Government Services Canada

Allocating Risk Through Insurance
Nolan Heuchert
Wylie-Crump Ltd.

Surety Bonds & Other Risk Control Devices
Steve McConnell, BA, CGA, CAIB
Network Bonding & Insurance Services Inc.

Risk Sharing in Infrastructure Projects
Winnie Shi
KPMG LLP

Risk Prevention/Response in Project Management
Brian Amouzegar
PLANTEK Project Services

Risk Sharing: Best Practices in Allocating Construction Risks in Contracts
Jeffrey A. Hand
Singleton Urquhart LLP

Risk Sharing: Project Enterprise Risk Assessment
Douglas A. Correa
Aon Reed Stenhouse Inc.

Minimizing Damages: Risk Management Lessons Learned from Construction Claims
Derek A. Brindle, Q.C.
Singleton Urquhart Legal Counsel LLP

Case Study: Managing Risk within a Program of Work
J. George Martins
SNC-Lavalin O & M

Construction Project Risk Identification Checklist
Marina A. Pratchett, Q.C.
Fasken Martineau DuMoulin LLP

Managing Risk & Mastering Due Diligence
Steve Small
Flatiron Corporation

Using Risk Management Tools in Construction Finance Negotiations
Eric Wolfe
KPMG LLP

Minimizing Damages: Risk Management Lessons Learned from Construction Claims
Glenn W. Ackerley
WeirFoulds LLP

Litigation Preparedness & the Handling of Claims
Michael Ingram
Deloitte & Touche LLP

Handling Construction Contract Amendments
Audrey Warner
McLauchlin & Associates

Registration: To reserve your place, call Federated Press toll-free at 1-800-363-0722.
In Toronto, call (416) 665-6868 or fax to (416) 665-7733. Then mail your payment along with the registration form. Places are limited. Your reservation will be confirmed before the course.

Location: Novotel Toronto Centre Hotel, 45 The Esplanade, Toronto, ON, M5E 1W2

Conditions: Registration covers attendance for one person, the supplementary course material as described in this document, lunch on both days, morning coffee on both days and refreshments during all breaks. The proceedings of the course will be captured on audio or video. Multimedia proceedings with all slides and handouts can be purchased separately on a CD-ROM which will also include the course material.

Time: This course is a two-day event. Registration begins at 8:00 a.m. The morning sessions start promptly at 9:00. The second day ends at 5:00 p.m.

Cancellation: Please note that non-attendance at the course does not entitle the registrant to a refund. In the event that a registrant becomes unable to attend following the deadline for cancellation, a substitute attendee may be delegated. Please notify Federated Press of any changes as soon as possible. Federated Press assumes no liability for changes in program content or speakers. A full refund of the attendance fee will be provided upon cancellation in writing received prior to November 19, 2013. No refunds will be issued after this date.

Discounts: Federated Press has special team discounts. Groups of 3 or more from the same organization receive 15%. For larger groups please call.

Payment must be received prior to November 28, 2013

Phone: 1-800-363-0722 Toronto: (416) 665-6868 Fax: (416) 665-7733

Registration Costs

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<th>NUMBER OF PARTICIPANTS:</th>
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<tr>
<td>COURSE: $1975</td>
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<tr>
<td>COURSE + PROCEEDINGS CD-ROM:</td>
<td>$1975 + $175 = $2150</td>
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<tr>
<td>PROCEEDINGS CD-ROM:</td>
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<td>PROCEEDINGS plus multimedia presentations:</td>
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NOTE: Please add 13% HST to all prices.
Proceedings CD-ROM will be available 30 days after the course takes place.

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For additional delegates please duplicate this form and follow the normal registration process.