

Applicable toward CPD Requirement

December 3 & 4, 2013, Toronto

Two-Day Event!

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



Course Leader
Karen B. Groulx,
Dentons
Canada LLP



Neil S. Abbott,
Gowling Lafleur
Henderson LLP



Maurice Audet,
Aon Reed
Stenhouse Inc.



Joann Brnjias,
Surety
Association of
Canada



Kenneth W.
Crofoot,
Goodmans LLP



Andrew
Gurlsky,
McLauchlin &
Associates



Joy Jackson,
City of London



Ronald
Petersen,
McMillan LLP



Rajiv Rattan,
MMM Group



Deborah
Tracogna,
City of Bramp-
ton



Sharon Vogel,
Borden Ladner
Gervais LLP

FACULTY

COURSE LEADERS

JOSEPH COSENTINO

Joseph Cosentino is a Partner at **Goodmans LLP**. He practises 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.

CO-LECTURERS

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 **McLaughlin & 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.

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

- *This program can be applied towards 9 of the 12 hours of annual Continuing Professional Development (CPD) required by the Law Society of Upper Canada. Please note that these CPD hours are not accredited for the New Member Requirement.*
- *For Alberta lawyers, consider including this course as a CPD learning activity in your mandatory annual Continuing Professional Development Plan as required by the Law Society of Alberta.*
- *Attendance at this course can be reported as 12 hours of Continuing Professional Development (CPD) to the Law Society of B.C.*
- *The Barreau du Québec automatically accredits training activities held outside the Province of Quebec and accredited by another Law Society which has adopted MCLE for its members*

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 reports
- 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

MULTIMEDIA

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
Revay and Associates Limited

Dispute Early Warnings

Ron Koerth, B.A.Sc., M.B.A., CFEI, CVFI, P.Eng.
Giffin Koerth Forensic Engineering

Dealing With Construction Liens

Paul Ivanoff
Osler, Hoskin & Harcourt LLP

Quantifying the Claim

Stephen O. Revay
Revay 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
Revay 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
McLaughlin & 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 26, 2013

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

TO REGISTER FOR CONSTRUCTION CLAIMS

Name _____

Title _____ Department _____

Approving Manager Name _____

Approving Manager Title _____

Organization _____

Address _____

City _____ Province _____ Postal Code _____

Telephone _____ Fax _____ e-mail _____

Please bill my credit card: AMEX VISA Mastercard

_____ Expiration date: ____ / ____

Signature : _____

Payment enclosed: Please invoice. PO Number: _____

WHEN CALLING, PLEASE MENTION PRIORITY CODE: MAIL COMPLETED FORM WITH PAYMENT TO:
Federated Press P.O. Box 4005, Station "A"
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REGISTRATION COSTS

NUMBER OF PARTICIPANTS:

COURSE: \$1975

COURSE + PROCEEDINGS CD-ROM:
\$1975 + \$175 = \$2150

PROCEEDINGS CD-ROM: \$599

PROCEEDINGS plus multimedia presentations:
\$799

NOTE: Please add 13% HST to all prices.

Proceedings CD-ROM will be available 30 days
after the course takes place

Enclose your cheque payable to
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For additional delegates please duplicate this form
and follow the normal registration process