

CONSTRUCTION INSURANCE

November 3, 2017

Indianapolis, IN
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Co-sponsored by



CONSTRUCTION INSURANCE

All construction involves risk, and one of the key tools to manage that risk is insurance. On November 3, 2017, the ABA Forum on Construction Law will present, in four cities across the country, a one-day program on "Construction Insurance."

With a faculty of leading lawyers and insurance specialists, the program will address many of the key insurance products available to insure construction risk, as well as issues related to the interplay of those insurance products with contract provisions and performance obligations. The program will cover topics including commercial general liability insurance, builders risk insurance, professional liability insurance, OCIP's and CCIP's, additional insureds, indemnity clauses, performance and payment bonds, subcontractor default insurance and other related topics. It also will touch on current trends in the construction insurance market, and therefore, it is suitable for both the new practitioner and the seasoned veteran.

In sum, "Construction Insurance" is a great opportunity for both lawyers and construction professionals to gain deeper knowledge about an aspect of the construction industry that is critical to the success of any construction project and to the project's participants.

Tuition includes a copy of the popular Forum book, *Construction Insurance: A Guide for Attorneys and Other Professionals*, as well as lunch and a full day of CLE instruction.

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Sedgwick LLP
Los Angeles, CA

Program Co-Chairs
Lauren E. Catoe
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Denver, CO

PROGRAM SCHEDULE

8:30 – 8:45 am

OPENING REMARKS

8:45 – 9:45 am

CONSTRUCTION PROJECTS: INSURANCE, RISK TRANSFER & EMERGING TRENDS

This session will address the basics of construction risk management, risk transfer and insurance coverages commonly used on construction projects. The session will also identify the key players on a project, common project delivery methods and the risks associated with each of those, and basic insurance policy concepts. This session will conclude with a discussion on emerging trends in the construction insurance industry.

9:45 – 10:45 am

COMMERCIAL GENERAL LIABILITY INSURANCE

One of the most widely-used insurance products for any construction project is the commercial general liability ("CGL") policy. This session will review some of the key provisions of CGL insurance including the insuring agreement, the definition of an occurrence, how coverage may be triggered and the definition of property damage. This session will also address commonly encountered exclusions asserted by insurers seeking to avoid coverage for construction defects.

10:45 – 11:00 am

BREAK

11:00 – 11:45 am

BUILDERS RISK INSURANCE

Builders risk insurance is used to insure against physical damage to the work during a construction project and, depending on the language of the policy, potentially other soft costs. This session will provide an overview of key construction contract provisions on the responsibility for obtaining the builders risk policy and the type of coverage that is required. The session will also cover the use of deductibles and self-insured retentions, the property that is covered by the builders risk policy, the covered causes of loss and commonly found exclusions.

11:45 am – 12:30 pm

PROFESSIONAL LIABILITY INSURANCE

Professional liability insurance is the key insurance product for insuring design errors and omissions. While professional liability insurance may apply to other activities on a construction project, design liability will be the focus of this session. Among other things, the session will cover the types of injuries and losses covered under a professional liability policy, the "claims-made" nature of professional liability insurance, the eroding limits concept, the lack of additional insured coverage for non-professionals, some of the standard exclusions in professional liability policies, and other coverages that might be available to insure design risks.

12:30 – 1:30 pm

LUNCH

1:30 – 2:00 pm

CONTROLLED INSURANCE PROGRAMS (OCIPs/CCIPs)

Owner controlled insurance programs (OCIPs) and contractor controlled insurance programs (CCIPs) are widely used on large construction projects to create a dedicated set of insurance policies for a single project. This session will examine the different types of controlled insurance programs, the insurance policies that are most often found in controlled insurance programs, key differences between policies under an OCIP or CCIP and individually procured policies, financial considerations for the use of a CCIP or OCIP, the administration of a controlled insurance program and challenges for administering and resolving disputes under an OCIP or CCIP.

2:00 – 3:00 pm

ADDITIONAL INSURED AND INDEMNITY CLAUSES

Additional insured coverage is a valuable tool for many construction industry participants to use another organization's insurance to insure risk. This session will examine the mechanics of additional insured coverage, the evolution of widely used ISO endorsements to provide additional insured coverage, and the impact of anti-indemnity statutes on the availability of additional insured status. This session also will examine the different types of indemnity clauses that are often found in construction and design agreements and how those indemnities may (or may not) be insured through a variety of insurance coverages.

3:00 – 3:15 pm

BREAK

3:15 – 4:00 pm

PERFORMANCE BONDS AND SUBCONTRACTOR DEFAULT INSURANCE

Performance bonds are an important risk management tool in all forms of construction, especially public construction. This session will address the basic duties and rights of the surety, the principal, and the obligee under a performance bond. Among those topics will be the performance surety's options upon default of the underlying principal, the surety's responsibility for warranties, delay damages, design defects and the surety's defenses to performance bond claims. This session also will examine subcontractor default insurance as an alternative to requiring performance bonds from subcontractors.

4:00 – 4:45 pm

PAYMENT BONDS

Payment bonds are used to protect subcontractors and other downstream entities from the risk of non-payment from upstream counter-parties. This session will cover the mechanics of a payment bond including the obligations of a surety under the payment bond, the surety's defenses to payment bond claims and other features of a payment bond.

4:45 – 5:00 pm

QUESTION & ANSWER SESSION



INDIANAPOLIS

Barnes & Thornburg LLP

11 S Meridian St

Indianapolis, IN 46204

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Karoline Jackson, Barnes & Thornburg, LLP

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Speakers

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Rebecca J. Seamands, Ice Miller

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Philip J. Truax, Wickens, Herzer, Panza, Cook & Batista Co.



Speakers

Michael J. Bidart, Shernoff Bidart Echeverria LLP

Todd N. Bressler, Suffolk Construction Company, Inc.

Ray Bustamante, Berkley Construction Professional

Rosa Martinez-Genzon, Anderson, McPharlin & Connors LLP

Mark S. Himmelstein, Newmeyer & Dillion LLP

Amy Hobbs Iannone, DPR Construction

Jennifer Luong, Greenland USA

John C. Yi, Tokio Marine - HCC Surety Group



Speakers

B. Michael Clark, Jr., Siegfried, Rivera, Hyman, Lerner, De La Torea, Mars & Sobel, P.A.

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Melinda S. Gentile, Peckar & Abramson, P.C.

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Deborah Bovarnick Mastin, Law Office of Deborah Mastin, PLLC

Anna D. Torres, Torres Law Group



Speakers

Dennis C. Cavanaugh, Robinson & Cole LLP

Timothy Kraft, The JBG Companies

Seth D. Lamden, Neal Gerber & Eisenberg LLP

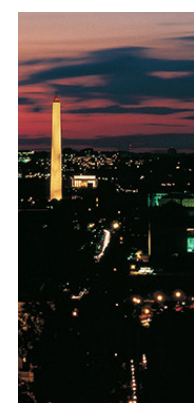
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Ellen M. Rowan, Aon Construction Services Group



PROGRAM INFORMATION

PROGRAM REGISTRATION

See page 7.

ON SITE REGISTRATION

On site registration is available for those persons who missed the registration deadline. If you plan to register at the door, you must call 312.988.5674 at least 72 hours before the program to confirm space is still available. Failure to call in advance may result in not being admitted to a sold-out program. On site registrants will be billed by the ABA within one week of the program.

REGISTRATION CONFIRMATION

If you do not receive a written confirmation by 10/9/2017, please call the ABA at 312.988.5674 to verify that your registration form and payment were received. Failure to confirm in advance of the program may result in not being admitted.

TUITION

Tuition includes admission to the program, lunch, program course materials and the book titled *Construction Insurance: A Guide for Attorneys and Other Professionals*.

CANCELLATION POLICY

No refunds will be granted for cancellations received after 10/9/17. To receive a refund, minus a \$50 administrative fee, cancellations must be made IN WRITING and RECEIVED by Tamara.Harrington@americanbar.org. Registrants who are unable to attend may send a substitute or receive course materials in lieu of a refund. The ABA reserves the right to cancel any program, and assumes no responsibility for personal expenses.

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TAX DEDUCTION FOR EDUCATIONAL EXPENSES

In the United States, an income tax deduction may be allowed for educational expenses undertaken to maintain or improve professional skills. This includes registration fees, travel, meals, and lodging expenses. (see *Tres. Reg. 1.162-5*) (*Coughlin vs. Commissioner* 203 F 2d 307).

SCHOLARSHIP INFORMATION

Scholarship includes admission to the program, breaks, lunch, and course materials. Please contact Tamara Harrington by email at tamara.harrington@americanbar.org or by phone at 312.988.5674 for scholarship information.

DIVERSITY SCHOLARSHIP INFORMATION

The Forum has available a Diversity Scholarship for the cost of registration for this program at each venue for women and minority construction lawyers, construction lawyers with disabilities, and construction lawyers from the LGBT community. Individuals wishing to be considered for a scholarship should submit a copy of their resume and a letter describing their construction law practice and the reasons why they want to attend the Regional Meeting. **Applications are due no later than October 2, 2017.** If selected, candidates must commit to attend the program. The scholarships are not transferable. Applications for the scholarships should be sent to the Forum's Diversity Committee Chair, David J. Theising, at dtheising@harrisonmoberly.com. If you have any questions, please contact Mr. Theising by email at dtheising@harrisonmoberly.com or by calling him at 317.639.4511.

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PROGRAM REGISTRATION

Advanced Registration Deadline: October 11, 2017

Three Ways to Register

- 1 **Online:** ambar.org/constructionlaw
- 2 **Fax:** 312.988.5850
- 3 **Mail:** American Bar Association
Service Center—Meeting & Event Registration
C11117
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Registration Fees

	before 10/11/17	after 10/11/17
Forum Member	\$275	\$325
ABA (Non-Forum) Member*	\$350	\$400
Non-ABA Member	\$400	\$450
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Please choose which city you will attend

- Indianapolis Los Angeles Miami Washington, D.C.

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 \$139.95 (Forum Members) \$159.95 (List)

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