



ABA FORUM ON THE CONSTRUCTION INDUSTRY

CONSTRUCTION INSURANCE PROGRAM

KNOW YOUR RISKS. KNOW YOUR OPTIONS.



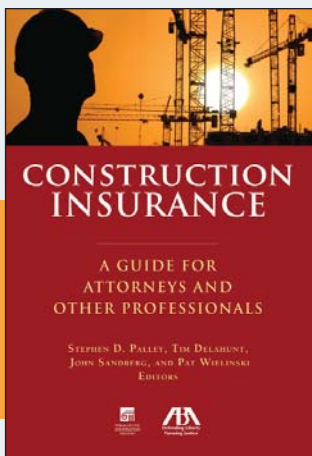
MAY 24, 2012

DOUBLETREE SUITES BY HILTON
SANTA MONICA, CA

LAWYERS SERVING THE CONSTRUCTION INDUSTRY THROUGH EDUCATION AND LEADERSHIP



INSURANCE PROGRAM WELCOME MESSAGE



Construction is about risk. One of the key tools available to manage that risk is insurance. On May 24th, 2012, the ABA Forum on the Construction Industry will present the Construction Insurance Program in Santa Monica. With a faculty of leading lawyers on construction insurance and related legal matters, 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. This program, built around the recently released Forum publication “Construction Insurance – A Guide for Attorneys and Other Professionals”, is suitable for both the new practitioner and the seasoned veteran. The world of construction insurance is ever-changing and all construction lawyers should be aware of the nuances of construction insurance. The insurance program is built around the recently-released Forum publication, “Construction Insurance,” a copy of which will be provided to each attendee as part of the registration fee. The program will cover topics including commercial general liability insurance, builders risk insurance, OCIP’s, additional insured endorsements, indemnities, performance bonds, professional liability insurance and other related topics. This one-day program offers a great value to the construction law practitioner to gain deeper knowledge about an aspect of the construction industry that is so critical to the success of any construction project and to owners, design professionals, contractors and subcontractors.

GOVERNING COMMITTEE LIAISON

Terrence L. Brookie
Frost Brown Todd, LLC

PROGRAM CO-CHAIRS

Daniel S. Brennan
Laurie & Brennan, LLP

Ryan A. Hiss
Lyman & Nielsen, LLC

John H. Tarlow
Tarlow Stonecipher & Steele, PLLC

PROGRAM SCHEDULE

8:45 - 9:00 am

OPENING REMARKS

9:00 - 9:45 am

INSURANCE AND RISK TRANSFER FOR CONSTRUCTION PROJECTS

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.

David Dekker

Pillsbury Winthrop Shaw Pittman LLP, Washington, DC

9:45 - 10:45 am

CGL 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.

Patrick Wielinski

Cokinos, Bosien & Young, Arlington, TX

10:45 - 11:00 am

BREAK

11:00 – 11:45 am

PERFORMANCE BONDS

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.

Marilyn Klinger

Sedgwick LLP, Los Angeles, CA

11:45 am - 12:30 pm

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.

Patrick O’Connor

Faegre Baker Daniels LLP, Minneapolis, MN

12:30 - 1:30 pm

LUNCH

Sponsored by Nelson Architectural Engineers

1:30 - 2:15 pm

ADDITIONAL INSURED

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.

Amy Fink

Jones Day, Los Angeles, CA

2:15 - 3:00 pm

INDEMNITY CLAUSES

Indemnity clauses are used throughout the construction industry. Insuring these indemnity clauses is important for the party providing the indemnity. This session 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.

Steve Palley

Ober Kaler, Washington, DC

3:00 - 3:15 pm

BREAK

3:15 - 3:45 pm

OCIP/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.

Tim Walsh

Aon Risk Services Central, Inc., Southfield, MI

3:45 – 4:30 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.

Deborah Ballati

Farella Braun & Martel LLP, San Francisco, CA

4:30 – 5:00 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.

Denise Puente

Simon, Peragine, Smith & Redfearn, LLC, New Orleans, LA

5:00 - 5:15 pm

QUESTION & ANSWER SESSION

5:15 – 6:30 pm

COCKTAIL RECEPTION

Sponsored by ARCADIS U.S., Inc. and Rinkus Consulting Group, Inc.

CONFERENCE INFORMATION

1. HOTEL INFORMATION:

The conference will be held at the Doubletree Suites, located at 1707 Fourth Street, Santa Monica, CA, 90401. The Forum has negotiated a special room rate of \$239 per single/ double room at the Doubletree. A 14% sales tax will also apply per night. To make your hotel reservations you may call the hotel directly at 310-395-3332 and mention the ABA 2012 Forum on the Construction Industry Insurance Program. We have reserved a limited block of rooms through May 2, 2012. After this date, the Hotel Reservation Office will assign rooms on a space available basis. All changes and cancellations to guaranteed hotel reservations must be made within 72 hours of the scheduled day of arrival to avoid a one night cancellation charge.

2. AIR TRAVEL:

Airfare discounts to ABA meetings are available through ABA Online Travel. To access ABA Online Travel, go to www.americanbar.org, and click on the link at the bottom of the ABA Calendar Box. At ABA Online Travel you will have automatic access to meeting airfare discounts, web fares and web book only airlines. The ABA’s toll-free number for Orbitz for Business (OFB) is 877-222-4185.

3. GROUND TRAVEL:

The Doubletree is only 9 miles north and a 30 minute drive (\$40 average taxi cost) from LAX airport. Parking at the Doubletree is \$28 a day.

4. PROGRAM REGISTRATION:

We encourage you to register online at www.americanbar.org/groups/construction_industry. Confirmations will be faxed to you within 72 hours of registration receipt. In order to be included in the list of program attendees, you must register by May 10th. Pre-registration ends on May 18th. Onsite registration is available for those persons who missed the registration deadline. If you plan to register at the door, please call the Forum at 312/988-5678 on or before May 21, to confirm that space is still available. Failure to call in advance may preclude admission to a sold out conference. Onsite registrants must pay the registration fees by check, money order, Visa, MasterCard, or American Express. NO registrations will be accepted without payment.

5. ON SITE INFORMATION:

Attendees may checkin at the ABA registration desk to pick up name badges and course materials beginning Thursday, May 24, 2012 at 7:30 a.m.

6. TUITION INFORMATION:

Tuition includes admission to the program, luncheon, reception and course materials. The Forum will be providing program materials on CD-Rom only in effort to help “green” the environment.

7. CANCELLATION POLICY:

Registrants who are unable to attend the conference will receive a refund less a \$50 administrative fee if written cancellation is received by May 10th, 2012. Cancellations may be faxed to 312/988-5677. No refunds will be granted after May 10th, 2012. Substitutions are acceptable, or conference materials will be sent in lieu of a refund after the program. The ABA reserves the right to cancel any programs and assumes no responsibility for personal expenses.

8. CLE CREDIT:

ABA programs ordinarily receive CLE credit in AK, AL, AR, AZ, CA, CO, DE, FL, GA, GU, HI, IA, ID, IL, IN, KS, KY, LA, ME, MN, MS, MO, MT, NH, NM, NV, NY, NC, ND, OH, OK, OR, PA, RI, SC, TN, TX, UT, VT, VA, VI, WA, WI, WV, and WY. These states sometimes do not approve a program for credit before the program occurs. This course is expected to qualify for 6.5 CLE credit hours in 60-minute-hour states, and 7.8 credit hours in 50-minute-hour states. This transitional program is approved for both newly admitted and experienced attorneys in NY. For more information about CLE accreditation in your state, contact the Forum at kelly.rodenberg@americanbar.org or 312.988.5678.

9. 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 Treas. Reg. Sec. 1.162-2) Coughlin v. Commissioner, 203 F.2d 307 (2nd Cir. 1953.)

10. AMERICANS WITH DISABILITIES ACT:

If special arrangements are required for disabled individuals to attend this program, please contact the Forum in writing by May 10th, 2012 at the American Bar Association, 321 N. Clark Street, Chicago, Illinois, 60654. Fax: 312-988-5677.

11. QUESTIONS:

If you have questions or require additional conference information, please call 312-988-5678. Fax: 312-988-5677; email: kelly.rodenberg@americanbar.org

CONSTRUCTION INSURANCE PROGRAM • MAY 24, 2012 REGISTRATION FORM

Please print or type

1. REGISTRANT INFORMATION:

Last Name

First Name

M.I.

(Name as you wish it to appear on attendee list & name badge)

ABA Member ID#

Firm/Company/Agency

Address

City

State

Zip

(Area Code) Business Phone Number

(Area Code) Business Fax Number

E-mail Address

2. REGISTRATION FEES:

- General Attendees: _____ @ \$270
 General Attendees after 4/27/12: _____ @ \$300
 Speakers _____ @ \$0

3. TOTAL PAYMENT:

Total \$ _____

4. PAYMENT INFORMATION:

- Check (made payable to ABA)
 MasterCard American Express VISA

Credit Card Number _____ Expiration Date _____

Signature _____

5. THREE WAYS TO REGISTER:

ONLINE:

www.americanbar.org/groups/construction_industry

MAIL:

American Bar Association
FORUM ON THE CONSTRUCTION INDUSTRY
Mailstop 18.2
321 N Clark Street
Chicago, IL 60654

FAX:

(312) 988-5677

QUESTIONS? CALL (312) 988-5678

If you cannot join us at the program but still want to be educated on Construction Insurance, you can order a copy of the new Construction Insurance Book. Call 1.800.285.2221 and reference PC: 5570225. Forum members price: \$139.95, Regular price \$159.95.