

THE BASIC COURSE IN TEXAS CONSTRUCTION LAW

The Westin Austin
at The Domain
Austin, Texas
October 4 & 5, 2012



Earn 14.00 MCLE Hours
including 1.00 Hour Ethics

Designed for
Texas Lawyers and
Construction Industry
Members and
Professionals



Sponsored by
THE CONSTRUCTION LAW SECTION
OF THE STATE BAR OF TEXAS

in cooperation with
THE TEXAS INSTITUTE OF CONTINUING LEGAL EDUCATION

THE BASIC COURSE IN TEXAS CONSTRUCTION LAW

sponsored by The Construction Law Section of the State Bar of Texas

October 4 & 5, 2012

11301 Domain Drive

The Westin Austin at The Domain

Austin, Texas 78758

This course has been approved for 14.00 hours credit (including 1.00 hour of ethics credit) which will apply towards MCLE, the College of the State Bar of Texas, and the Texas Board of Legal Specialization in Civil Trial Law and Real Estate Law. To obtain full MCLE credit, you must attend all sessions, including the luncheons. If you need CLE credit in a state other than Texas, please let us know at the time of registration.

CPAs may obtain 16.80 hours of CPE credit toward licensing with the Texas State Board of Public Accountancy. Sponsor No. 6867

The Texas Institute of CLE is an accredited sponsor with the Texas Department of Insurance. An application has been filed for 16.80 hours of General credit (all license types) and 1.20 hours ethics.

The organizers of this conference believe there are approximately 14 hours of continuing education credit for architects potentially available over the two-day course. Members of the American Institute of Architects should self-report continuing education to AIA at <http://www.aia.org>. For reporting to the Texas Board of Architectural Examiners, see <http://www.tbae.state.tx.us/Registrants/ContinuingEducation.shtml>.

This course is eligible for MCE credit through the Texas Real Estate Commission.

HERE'S WHY YOU SHOULD ATTEND:

The course is intended for Texas lawyers and construction industry members and professionals who are interested in acquiring a basic knowledge of Texas construction law, legal relationships between owners, designers, contractors, and their insurers and sureties, and also serves as an introduction to construction industry contracts.

The two-day course will emphasize the practical aspects of construction law, including discussion of construction contracts, Texas lien laws, and construction disputes and their resolution. Attendees will acquire a basic glossary of construction terms and concepts, understand the relationships between the major players in the construction process, and be able to recognize and avoid common pitfalls in contract drafting and in construction litigation.

The program will be taught by experienced construction lawyers who will emphasize the practical aspects of construction law in a setting that will provide ample opportunity for discussion and follow-up questions. The course materials will include a syllabus of recent articles, publications, and cases, together with a glossary and original program materials.

PROGRAM

THURSDAY, OCTOBER 4, 2012

- 8:00 a.m. **Late Registration** – Ballroom Foyer, The Westin Austin at The Domain, 11301 Domain Drive, Austin, TX 78758. Telephone: 512/832-4197
- 8:00 a.m. **Continental Breakfast** – *Sponsored by Nelson Architectural Engineers, Inc.*
- 8:50 a.m. **Welcoming Remarks**
Andrea A. Hight, Dallas (*Presiding Officer*)
- 9:00 a.m. **Overview of the Construction Industry and Glossary of Construction Terms** – An explanation of the way the construction industry operates, including the main players and relationships, and an introduction to the terminology commonly encountered in the practice of construction law.
Cindy L. Becker, Austin
- 10:00 a.m. **Coffee Break**
- 10:15 a.m. **Contracts From the Owner's Perspective** – Learn the key clauses and provisions that will help an owner obtain maximum benefit from the general contractor that it hires - and pays - for the construction project, including provisions for protecting owners when projects do not go as planned.
Robert C. Bass, Jr., Austin
- 11:15 a.m. **Securing and Enforcing Lien & Bond Claims in Texas** – Asserting or defending against bond claims in Texas can be treacherous territory. Learn how to avoid costly mistakes, how to find relief in statutorily required payment bonds, and how to take advantage of alternative payment sources when a good project experience goes bad.
Joe R. Basham, Austin

12:00 Noon

1.00 Ethics
Credit

LUNCH: Tips on Avoiding Malpractice for the Young Construction Lawyer – This presentation will introduce perils encountered by young construction practitioners, key strategies and day-to-day law practice management tips that will help avoid malpractice claims and grievances. *Tickets for registrants may be purchased for \$25. Please use the enclosed form to reserve your seat. Tickets will not be sold at the door.*

Anthony F. Ciccone, Austin

1:30 p.m.

Contracts From the General Contractor's Perspective – General contractors have their own pressure points and goals in negotiating their construction contracts. This presentation will cover some of the key issues and provisions that can help general contractors navigate day-to-day project issues and have adequate remedies when things go awry.

Donald W. Holcomb, Austin

2:30 p.m.

Insurance Basics for the Construction Lawyer – Every construction lawyer and industry participant should understand the key elements of insurance coverage and claims on construction projects, as well as how to secure and maximize the client's rights under all available policies. This presentation will help illuminate the often shadowy world of construction insurance and show how to avoid the loss of available insurance coverage and proceeds.

Lee H. Shidlofsky, Austin

3:15 p.m.

Afternoon Break

3:30 p.m.

Causes of Action in Texas Construction Law – Choosing the right cause of action early on in a case can mean the difference between ultimate success and failure. Learn the most common causes of action and how different ones can help (or hurt) your case.

G. Stewart Whitehead, Austin

4:15 p.m.

The Successful Preparation and Use of Construction Experts – Through their testimony and written reports, experts are indispensable for educating judges, juries and arbitrators about complex construction issues. Learn practical guideline, tips and examples of proper selection and preparation of experts, including when to recognize that you need one.

Dylan Drummond, Austin

5:00 p.m.

Adjourn to Reception – *Sponsored by Rimkus Consulting Group, Inc.*

FRIDAY, OCTOBER 5, 2012

8:30 a.m.

Schedules and Preparation and Analysis of Construction Claims – Any construction practitioner should know the nuts and bolts of construction claims, including how to prepare and prosecute an affirmative claim. This topic will cover the key elements of claim preparation and discuss the basic strategies in asserting or defending against claims.

George C. Baldwin, Austin

9:30 a.m.

Theories of Liability Against Architects and Engineers – Claimants continue to craft new theories of liability to expand the scope and liability of the architect or engineer, or to avoid defenses like the economic loss rule or lack of privity. This presentation will outline the most common theories of liability and discuss substantive and procedural developments affecting claims against architects and engineers.

Amy Emerson, Austin

10:30 a.m.

Coffee Break

10:45 a.m.

The Subcontract: With Emphasis on Key Clauses from the General Contractor's and Subcontractor's Perspectives – Learn about the key subcontract clauses and how they can help clarify responsibilities, define rights and remedies, and allocate risk where the parties intend it to be.

Mason P. Hester, San Antonio

- 11:45 a.m. **LUNCH: Public Procurement in Texas** – Public contract law is both similar and different from the private realm. It is governed by more statutes; it is more consistent in its rules; it can contain more barriers for the private contractor than he or she is used to. But with the deep pockets involved in the public sector, that is where “the action” often is, so familiarity with its promises and pitfalls is a necessity. *Tickets for registrants may be purchased for \$26. Please use the enclosed form to reserve your seat. Tickets will not be sold at the door.*
Eileen Youens, Dallas
- 1:15 p.m. **Contract Termination** – When faced with a contractual breach, a lawyer must provide the client with the tools and information necessary to assess the pros and cons of termination, often under very time-pressured circumstances. This topic will discuss the do’s and don’t’s of entering the land of contract termination.
Christopher S. Stacy, Austin
Matthew J. Sullivan, Austin
- 2:15 p.m. **Dispute Resolution Through Litigation and Arbitration, Including the Use of Experts** – An experienced construction lawyer offers views on how to mount and maintain a successful litigation strategy and the nuts and bolts of taking a case through the discovery and trial processes, including the successful preparation and use of construction experts.
Brian K. Carroll, Temple
- 3:15 p.m. **Afternoon Break**
- 3:30 p.m. **What Works and Doesn’t Work in Construction Mediations** – Mediation often presents the last, best chance for clients to resolve a claim before expensive discovery battles, trial, or arbitration. An experienced construction mediator offers his views on successful advocacy strategies in these contexts.
Jeffrey R. Jury, Austin
- 4:30 p.m. **Adjourn**

CONFERENCE FACULTY

George C. Baldwin, Austin
Ford, Nassen & Baldwin, P.C.

Joe R. Basham, Austin
Allensworth & Porter, LLP

Robert C. Bass, Jr., Austin
Winstead PC

Cindy L. Becker, Austin
Birch & Becker, LLP

Brian K. Carroll, Temple
Sanderford & Carroll P.C.

Anthony F. Ciccone, Austin
Kiester, Lockwood & Ciccone, L.L.P.

Dylan Drummond, Austin
Griffith Nixon Davison, P.C.

Amy Emerson, Austin
Lloyd Gosselink Blevins Rochelle &
Townsend, P.C.

Mason P. Hester, San Antonio
Coats | Rose

Donald W. Holcomb, Austin
Knolle, Holcomb, Kothmann & Callahan

Jeffrey R. Jury, Austin
Burns Anderson Jury & Brenner, L.L.P.

Lee H. Shidlofsky, Austin
Shidlofsky Law Firm

Christopher S. Stacy, Austin
DuBois, Bryant & Campbell, L.L.P.

Matthew J. Sullivan, Austin
DuBois, Bryant & Campbell, L.L.P.

G. Stewart Whitehead, Austin
Winstead PC

Eileen Youens, Dallas
Law Office of Eileen Youens, LLC

Presiding Officer
Andrea A. Hight, Dallas
Winstead PC

GENERAL INFORMATION

The Westin Austin at The Domain — A limited number of rooms have been reserved at The Westin Austin at The Domain at the special rate of \$169.00 per night for a single/double. The hotel is located at 11301 Domain Drive, Austin, TX 78758. **Your reservations must be made by September 12, 2012.** You must identify yourself as a participant with the **Texas Institute of CLE** in order to obtain a room from our room block. Please call the hotel directly at (512) 832-4197 or visit <https://www.starwoodmeeting.com/Book/CLE2012> to make your reservation. We recommend that you make your reservations immediately if you plan to attend this course.

Pre-Registration — To ensure sufficient materials are available for all attendees, pre-registration is strongly encouraged. Door registration is an additional \$50.00.

Registration by Telephone — You may register by calling 512/451-6960. Phone-in registrations require an AMERICAN EXPRESS, VISA or MASTERCARD number, expiration date, security code and billing address.

Cancellations and Refunds — Refunds, less a \$50.00 processing fee, will be given to registrants who cancel by 5:00 p.m. on the Friday preceding the course. No refunds will be granted thereafter. Course materials will automatically be mailed to prepaid registrants who were not able to attend.

Special Accommodations — If special arrangements are required for a person with a disability to attend this program, please contact us at 512/451-6960.

REGISTRATION FORM

Mail to: Texas Institute of Continuing Legal Education
The Basic Course in Texas Construction Law 2012
P.O. Box 4646
Austin, Texas 78765-4646

FAX to: 512/451-2911
Phone: 512/451-6960
Online at: www.clesolutions.com
(Phone, Fax and Online Registrations must be accompanied by American Express, Visa or MasterCard Information.)

Please register me for the course as follows:

- Pre-Registration fee for CL Section Members (Due by 5 p.m. September 14) \$ 395.00
- Pre-Registration fee for Non Members (Due by 5 p.m. September 14) \$ 445.00
- Registration fee (After 5:00 p.m. September 14 and before September 28) \$ +50.00
- Late Registration fee (After 5:00 p.m. September 28 and at the door) \$+100.00
- Thursday Luncheon Tickets at \$25.00 each \$ _____
- Friday Luncheon Tickets at \$26.00 each \$ _____
- Construction Law Section Dues (*to be eligible for the discounted member registration fee*)... \$ 30.00

I cannot attend the course. Please forward the following:

- Written course materials at \$160 + .0825 tax \$ 173.20

TOTAL ENCLOSED \$ _____

No refunds after 5:00 p.m., Friday, September 28, 2012. See cancellation policy above.

(Please Print)

Name _____

Firm _____

Address _____

City _____ State _____ Zip _____

Telephone _____ Fax _____

E-mail _____ Bar Card No. _____

Make Checks payable to: Texas Institute of CLE

Please Charge: _____ AMEX _____ VISA or _____ MASTERCARD

Card No. _____ Exp. Date _____

Name on Card _____ 3 or 4 Digit Security Code _____

Authorized Signature _____

Billing Address (incl. Zip Code) _____

For more information about our CLE seminars and available CLE materials see our website at www.clesolutions.com

Texas Institute of
Continuing Legal Education
P.O. Box 4646
Austin, Texas 78765-4646

PRESORTED STANDARD
U.S. POSTAGE
Paid
Austin, Texas
Permit No. 1357



THE BASIC COURSE IN TEXAS CONSTRUCTION LAW . . .

has been designed for the 1-5 year lawyer,
the senior lawyer who hasn't been involved in a
construction law case, contractors, design professionals
and others who are interested in gaining a basic
knowledge of Texas construction law.

October 4 & 5, 2012 * The Westin Austin at The Domain * Austin, Texas