

THE BASIC COURSE IN TEXAS CONSTRUCTION LAW

Hyatt Regency Hotel
Austin, Texas
October 22 & 23, 2009



Earn 13.75 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 22 & 23, 2009

208 Barton Springs Road

Hyatt Regency Hotel

Austin, Texas 78704

This course has been approved for 13.75 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 16.50 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 16.50 hours of General credit (all license types) and 1.20 hours ethics.

The organizers of this conference believe there are approximately 13 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 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 22, 2009

- 8:00 a.m. **Late Registration** – Ballroom Foyer, Hyatt Regency Austin Hotel
208 Barton Springs Road, Austin, TX 78704. Telephone: 512/477-1234
- 8:50 a.m. **Welcoming Remarks**
Joe R. Basham, Austin (*Course Chair*)
- 9:00 a.m. **Overview of the Construction Industry and Glossary of Construction Terms** – An explanation of the way the construction industry operates and an introduction to the terminology commonly encountered in the practice of construction law.
Steven D. Nelson, Austin
- 10:00 a.m. **Coffee Break** – *Sponsored by HSSK*
- 10:15 a.m. **Contracts From the Owner's Perspective** – Learn the key clauses and provisions that will help an owner extract maximum benefit from the general contractor that it hires - and pays - for the construction project.
Robert C. Bass, Jr., Austin
- 11:15 a.m. **Break**
- 11:30 a.m. **LUNCH: Tips on Avoiding Malpractice for the Young Construction Lawyer** – A seasoned construction lawyer will introduce perils encountered by young construction practitioners, and 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.***
W. Wade Porter, Austin

1.00 Ethics
Credit

- 1:00 p.m. **Securing and Enforcing Lien & Bond Claims in Texas** – Texas has one of the most complicated and dangerous statutory systems in the country for mechanics’ and materialmen’s liens. 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.
 C.A. “Joe” Davis, Austin
- 2:00 p.m. **The Subcontract: With Emphasis on Key Clauses from the General Contractor’s and Subcontractor’s Perspectives** – A presentation on 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
- 2:45 p.m. **Afternoon Break** – *Sponsored by Haag Engineering Company*
- 3:00 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 field and show how to avoid the loss of available insurance coverage and proceeds.
 Lee H. Shidlofsky, Austin
- 4:00 p.m. **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 arrows for the quiver in asserting or defending against claims.
 George C. Baldwin, Austin
- 5:00 p.m. **Adjourn to Reception** – *Sponsored by Rimkus Consulting Group, Inc.*

FRIDAY, OCTOBER 23, 2009

- 8:30 a.m. **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.
 Julian Grant, Austin
- 9:30 a.m. **Liability and Causes of Action for Design Errors & Omissions** – 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.
 Cindy L. Becker, Austin
- 10:30 a.m. **Coffee Break** – *Sponsored by Nelson Architectural Engineers*
- 10:45 a.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 help provide decision-makers with “informed consent” in deciding whether or not to cross this threshold.
 Timothy D. Matheny, Dallas
- 11:45 a.m. **LUNCH: The Texas Residential Construction Commission** – This session will review the current state of residential construction law, including examining the Residential Construction Liability Act and the effects on dispute resolution left by the sunset of the Texas Residential Construction Commission. This presentation will acquaint seminar attendees with the timetables and other procedural hurdles facing claimants, options for builders to consider in responding to an RCLA claim, and unresolved questions for construction lawyers. ***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.***
 Susan K. Durso, Austin
 Chris A. Griesel, Austin

- 12:45 p.m. **Break**
- 1:00 p.m. **Dispute Resolution Through Litigation and Arbitration, Including the Use of Experts** – A panel of experienced construction professionals 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.
David P. Boyce, Austin
David Stauch, Austin
Leonard W. Woods, Jr., Austin
- 2:30 p.m. **Alternative Dispute Resolution - What Works and Doesn't Work in the World of Arbitration and Mediation** – Mediation often presents the last, best chance for clients to resolve a claim before trial, arbitration, or devastatingly expensive discovery battles; and arbitration often requires trial lawyers to adopt a very different mindset and approach. An experienced construction mediator and arbitrator offers his views on successful advocacy strategies in these contexts.
Jeffrey R. Jury, Austin
- 3:30 p.m. **Afternoon Break**
- 3:45 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 prime contractors create a road map for on-the-job conduct and remedies when things go awry.
Donald W. Holcomb, Austin
- 4:45 p.m. **Adjourn**

CONFERENCE FACULTY

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

Donald Wayne Holcomb, Austin
Knolle, Holcomb, Kothmann & Callahan

Robert C. Bass, Jr., Austin
Winstead PC

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

Cindy L. Becker, Austin
Birch & Becker, LLP

Timothy D. Matheny, Dallas
Ford Nassen & Baldwin, P.C.

David P. Boyce, Austin
Wright & Greenhill PC

Steven D. Nelson, Austin
SureTec Information Systems, Inc.

C.A. "Joe" Davis, Austin
Brown McCarroll, L.L.P.

Winston Wade Porter, Austin
Allensworth & Porter, LLP

Susan K. Durso, Austin
Texas Residential Construction Commission

Lee H. Shidlofsky, Austin
Visser Shidlofsky LLP

Julian Grant, Austin
Office of the Attorney General

David Stauch, Austin
HS&A

Christopher Austin Griesel, Austin
Allensworth & Porter, LLP

Leonard W. Woods, Jr., Austin
Jackson Walker L.L.P.

Mason P. Hester, San Antonio
Coats Rose

Presiding Officer
Joe R. Basham, Austin
Allensworth & Porter, LLP

GENERAL INFORMATION

Hyatt Regency Austin Hotel -- A limited number of rooms have been reserved at the Hyatt Regency Austin Hotel at the special rate of \$169.00 for single/double. The hotel is located at 208 Barton Springs Road, Austin, TX 78704. **Your reservations must be made by September 30, 2009.** 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 800/233-1234 or 512/477-1234 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 2009
P.O. Box 4646
Austin, Texas 78765-4646
or FAX Form to: 512/451-2911 (*must be accompanied by an American Express,*
or Phone: 512/451-6960 *Visa or MasterCard Information*)

Please register me for the course as follows:

<input type="checkbox"/> Pre-Registration fee for CL Section Members (Due by 5 p.m. October 2)	\$ 345.00
<input type="checkbox"/> Pre-Registration fee for Non Members (Due by 5 p.m. October 2)	\$ 395.00
<input type="checkbox"/> Registration fee (After 5:00 p.m. October 2 and before October 16).....	\$ +50.00
<input type="checkbox"/> Late Registration fee (After 5:00 p.m. October 16 and at the door).....	\$+100.00
<input type="checkbox"/> Thursday Luncheon Tickets at \$25.00 each	\$ _____
<input type="checkbox"/> Friday Luncheon Tickets at \$26.00 each	\$ _____
<input type="checkbox"/> Construction Law Section Dues (<i>to be eligible for the discounted member registration fee</i>)....	\$ 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, October 16, 2009. Cancellations: 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 22 & 23, 2009 * Hyatt Regency Hotel * Austin, Texas

