

THE BASIC COURSE IN TEXAS CONSTRUCTION LAW

**The Westin Oaks Houston
at the Galleria
Houston, Texas
November 21 & 22, 2013**



**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

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November 21 & 22, 2013

5011 Westheimer The Westin Oaks Houston at the Galleria Houston, Texas 77056

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 13.5 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, NOVEMBER 21, 2013

- 8:00 a.m. **Late Registration** – Ballroom Foyer, The Westin Oaks Houston at the Galleria, 5011 Westheimer, Houston, TX 77056
Telephone: 713/960-8100
- 8:00 a.m. **Continental Breakfast** – *Sponsored by Nelson Architectural Engineers, Inc.*
- 8:50 a.m. **Welcoming Remarks**
Andrea Alford Hight, Dallas (*Presiding Officer*)
- 9:00 a.m. **Overview of the Construction Industry and Glossary of Construction Terms** – An explanation of the general 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.
William K. Andrews, Houston
- 10:00 a.m. **Coffee Break** – *Sponsored by Synergen Consulting*
- 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.
Thad Horan Armstrong, Houston

- 11:00 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.
Elizabeth M. Debaillon, Houston
- 12:15 p.m. **LUNCH: Tips on Avoiding Malpractice** – This presentation will introduce perils encountered by 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.*
1.00 Ethics Credit
Teresa Schneider, Houston
- 1:30 p.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.
Curtis W. Martin, Houston
- 2:15 p.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.
William David Toney, Houston
- 3:00 p.m. **Afternoon Break** – *Sponsored by Interface Consulting International, Inc.*
- 3:15 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.
Douglas P. Skelley, Austin
- 4:15 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.
Vijay A. D’Cruz, Houston
- 5:00 p.m. **Adjourn to Reception** – *Sponsored by Rimkus Consulting Group, Inc.*

FRIDAY, NOVEMBER 22, 2013

- 8:00 a.m. **Continental Breakfast** – *Sponsored by FTI Consulting, Inc.*
- 8:30 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.
John P. Cahill, Jr., Houston
- 9:30 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.
Barry Stephen Rabon, Houston
- 10:30 a.m. **Coffee Break** – *Sponsored by McCullough & Associates*

- 10:45 a.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.
Timothy C. Ross, Houston
- 12:00 Noon **LUNCH: 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. *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.*
Richard Paul Flake, Houston
- 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.
Allison J. Snyder, Houston
- 2:15 p.m. **Afternoon Break** – *Sponsored by Demand Construction Services, Inc.*
- 2:30 p.m. **The Residential Construction Liability Act** – An explanation of the Texas Residential Construction Liability Act and how to assert and defend a residential construction defect claim.
Ian P. Faria, Houston
- 3:30 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 guidelines, tips and examples of proper selection and preparation of experts, including when to recognize that you need one.
Matthew S.C. Moore, Houston
- 4:30 p.m. **Adjourn**

CONFERENCE FACULTY

William K. Andrews, Houston
Andrews Myers, P.C.

Matthew S.C. Moore, Houston
Coats | Rose

Thad Horan Armstrong, Houston
Thompson & Knight LLP

Barry Stephen Rabon, Houston
Coats | Rose

John P. Cahill Jr., Houston
Hays, McConn, Rice & Pickering, P.C.

Timothy C. Ross, Houston
Andrews Myers, P.C.

Vijay A. D'Cruz, Houston
Locke Lord LLP

Teresa Schneider, Houston
Winstead PC

Elizabeth M. Debaillon, Houston
Cokinos, Bosien & Young, P.C.

Douglas P. Skelley, Austin
Shidlofsky Law Firm LLP

Ian P. Faria, Houston
Coats | Rose

Allison J. Snyder, Houston
Porter & Hedges, L.L.P.

Richard Paul Flake, Houston
Cokinos, Bosien & Young, P.C.

William David Toney, Houston
Adams & Reese LLP

Curtis W. Martin, Houston
Ford Nassen & Baldwin PC

Presiding Officer
Andrea Alford Hight, Dallas
Winstead PC

GENERAL INFORMATION

The Westin Oaks Houston at the Galleria -- A limited number of rooms have been reserved at The Westin Oaks Houston at the Galleria at the special rate of \$169.00 per night for a single/double. The hotel is located at 5011 Westheimer, Houston, TX 77056. **Your reservations must be made by October 30, 2013.** 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 (713) 960-8100 or visit <https://www.starwoodmeeting.com/Book/TEK18> 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 \$100.00.

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 2013
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. November 1) \$ 395.00
 Pre-Registration fee for Non Members (Due by 5 p.m. November 1) \$ 445.00
 Registration fee (After 5:00 p.m. November 1 and before November 15) \$ +50.00
 Late Registration fee (After 5:00 p.m. November 15 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, November 15, 2013. 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 or to register online,
visit www.clesolutions.com.

Texas Institute of
Continuing Legal Education
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Austin, Texas 78765-4646

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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.

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