

Avoiding, Prosecuting, & Defending **Construction Defect Claims**



May 17, 2019

HILTON GARDEN
INN MIDTOWN

Atlanta, GA

ACCREDITATION

GA CLE, AIA, IRMI

(see inside for details)

THE SEMINAR GROUP ~ RAISING THE BAR OF CONTINUING LEGAL AND PROFESSIONAL EDUCATION

Seminar Overview

Construction and design defects are the scourge of the construction industry and can cause building damage and result in significant expenses for owners, designers, contractors, material suppliers and insurers. Defect claims can plague our court and arbitration systems, resulting in insurance claims and loss of productivity for the owners, designers, and contractors while the litigation proceeds. The standard assumptions related to risk transfer and insurance coverage no longer apply. Instead, companies are continually adjusting their practices in response to changes in market conditions, insurance availability, and the law.

This seminar will focus on strategies and tactics employed to address and avoid construction defect problems. The speakers at this seminar have a vast amount of experience with construction defect claims and are among the leaders in their trades. Attending this seminar will help keep you on the cutting edge of the ever-changing world of construction defects.

Who Should Attend:

Architects
Attorneys
Contractors
Engineers
Insurance Professionals

Construction Defect Claims

Friday, May 17, 2019

8:00 Introduction and Overview

Joseph J. Dinardo, Program Co-Chair
Smith Currie & Hancock LLP

Jennifer A. Kennedy-Coggins, Program Co-Chair
Cozen O'Connor

8:10 Construction Defects – The Basics

What exactly is a construction defect? How are construction defects defined by Georgia law? How are construction defects defined in other jurisdictions? What are the typical types of construction defects encountered on commercial and residential projects? What are the different types of construction defects? How construction defects are usually discovered; overview of major projects plagued by defects and the resulting damages

Joseph J. Dinardo
Smith Currie & Hancock LLP

9:00 Avoiding Construction Defect Claims

Steps to be taken to avoid construction defect claims; contract and subcontract clauses; design specifications vs. performance specifications; constructability reviews; subcontractor selection; trade-specific risk mitigation plans; mock-ups; design changes on the fly; robust QA/QC – punchlist prevention; commissioning; documentation; responding to notices of defects or warranty calls – keeping complaints from becoming Complaints

John W. Giannini III, CRIS, LEED
Business Development Risk Manager
Turner Construction Company

9:45 Break

10:00 Prosecuting Construction Defect Claims

How to best document a construction defect claim for maximum recovery; is this defect covered by warranty? When and how to make a warranty claim; the types of claims and causes of action to assert in litigation; choosing the right arbitration service (national industry providers vs. private arbitrators and the risk of bias); how to best establish your damages

Joseph J. Dinardo
Smith Currie & Hancock LLP

John W. Giannini III, CRIS, LEED
Business Development Risk Manager
Turner Construction Company

10:45 Defending Construction Defect Claims

Statute of limitations for defect claims and statute of repose for defect claims – GA, FL, AL, etc.; affirmative defenses to raise in response to defect claims; tender issues/finding potentially responsible third-parties; when and why to hire an expert to defend against defect claims; alternative dispute resolution procedures for defect claims

Denise E. Weiner
Hall Booth Smith PC

11:30 Lunch ~ Sponsored by:



12:30 Testifying About Construction Defect Claims

How to successfully minimize liability and exposure for construction defect claims through expert testimony; how to maximize recovery through expert testimony when prosecuting a construction defect claim; “how the sausage is made” – formulating expert opinions and conclusions; the “forensics” of expert testimony in construction defect cases; stories from the battlefield

Jon Grove, PSP, Sr. Managing Consultant
Berkeley Research Group LLC

David L. Zion, AIA, NCARB, CSI, Director
Berkeley Research Group LLC

1:30 Engineer’s and Architect’s Duties and Liabilities to the Contractor in the Design-Bid-Build Delivery Model to Avoid Construction Defects and the Law of Engineering and Architect Malpractice

Sufficiency of design to avoid construction defects; complying with rules on sealing of documents and plans; preventing the unauthorized practice of design services; discussion of ethics hypotheticals/case studies; administration of Contract for Owner; review of Contractor submittals; inspection of contractor’s and sub’s work to avoid defects; inspection of materials and supplies before installation to avoid defect claims; overview of the Standard of Care for Engineers and Architects; reviewing the grounds for professional liability claims; identifying who can bring a claim; examining common sources of professional liability claims; reviewing defenses to liability claims; determining damages for construction defect claims

Sherri G. Buda
Knight Johnson LLC

Cheryl H. Shaw
Freeman Mathis & Gary LLP

2:30 Break

2:45 The Emerging Role (and Risks) of Drones in Assisting with Construction

What are drones exactly and how are they regulated? Ways to use drones to assist in construction and help avoid construction defect claims; possible liabilities as a result of drone operation; parties with potential liability exposure in drone operations; theories of liability; is there insurance coverage available for drone operations?

Jennifer A. Kennedy-Coggins
Cozen O'Connor

3:30 Reducing Risk for Yourself, Your Company and Your Clients

Recent changes to the AIA form documents (addressing defects); negotiating fair and understandable contract terms in contemplation of potential construction defect claims; understanding consequences for defects, delay, disruption, nonperformance, and inadequate performance; The Economic Loss Rule; Shop Drawing Liability

Fred Warren Jacoby
Cozen O'Connor; Philadelphia, PA

4:15 Finding Coverage for Construction Defect Claims

Coverage provided by general liability vs. professional liability policies for construction defect claims; finding multiple “pockets” to pay for construction defects; killer exclusions – “your work”, etc.; certificates of insurance and additional insureds; indemnities, assignment, and subrogation; warranties guarantees, and certifications; recognizing and responding to construction defect claims

Kirk D. Johnston
Smith Currie & Hancock LLP

5:00 Adjourn & Reception ~ Sponsored by:



Faculty - Construction Defect Claims



Joseph J. Dinardo, Program Co-Chair, is a partner at Smith Currie & Hancock LLP. His practice focuses on construction disputes, lien prosecution and defense, contracts, commercial litigation, labor law, and collections. He has developed a niche practice working with clients to enforce judgments and recover money through the process of garnishment and seizure.



Fred Warren Jacoby, a vice chairman of Cozen O'Connor, is a commercial litigator with an emphasis on construction law. He has notably diverse experience and is a sought-after adviser who serves companies in the construction, real estate, and financial services. He represents clients in commercial litigation and provides strategic counsel on operations and contracts.



Jennifer A. Kennedy-Coggins, Program Co-Chair, is a member of Cozen O'Connor. She has experience litigating civil and commercial matters, including those pertaining to construction defect, premises liability, mass and complex torts, transportation injuries, products liability, insurance coverage, and extracontractual disputes, including bad faith claims.



Kirk D. Johnston is a partner at Smith Currie & Hancock LLP. He focuses his practice on construction litigation, risk management and transactional services. He has experience representing owners, general contractors, architects, and surety companies on a wide range of construction projects, including high rises, highways, bridges, and industrial complexes.



Sherri G. Buda, an attorney at Knight Johnson LLC, practices in construction, real estate, and business litigation. She represents builders, owners, general contractors, subcontractors, designers and home owners in federal and state court cases involving negligent construction, defective materials, lien foreclosure, bond claims, and breach of contracts.



Cheryl H. Shaw is a partner at Freeman Mathis & Gary LLP. She practices in the Construction and Professional Liability practice groups. Her construction practice includes representing design professionals, contractors, owners, and other clients in all types of construction disputes, including professional malpractice, risk management, and breach of contract.



John S. Ducat III, a partner at DLA Piper LLP, has a global construction law practice concentrated on the representation of owners, developers, and contractors in complex transactional and litigation matters concerning the development and construction of major projects. He has advised domestic and foreign-based clients on contentious and non-contentious projects.



Denise E. Weiner is a partner at Hall Booth Smith PC. She serves as the past president of the Tort and Insurance Practice Section of the State Bar of Georgia and is a frequent speaker at the Southern Loss Association, Atlanta Claims Association, Southeastern Arson Seminars, Georgia Fire Investigators Association and for many national insurance carriers.



John W. Giannini III, CRIS, LEED, is a Business Development Risk Manager for Turner Construction Company. His primary responsibilities include contract drafting and negotiation, risk management, claims management and corporate compliance. He worked for 23 years in the construction industry, as a project manager, superintendent and estimator.



David L. Zion, AIA, NCARB, CSI, is a Director in the Atlanta office of Berkeley Research Group LLC and has more than thirty-five years of experience in the design and construction industry. He provides dispute consulting services and/or pro-active risk and construction management services for projects located in the United States, Caribbean, and Canada.



Jon Grove, PSP, is a senior managing consultant at Berkeley Research Group LLC. He has expertise navigating high-stakes challenges, risks, and opportunities related to large projects and contracts. He has over 20 years of experience in project management, cost estimating and fieldwork coordination for contractors, developers and other professional services firms.

Construction Defect Claims

Credits

GA CLE

This course has been approved by the Commission on Continuing Lawyer Competency of the State Bar of Georgia for mandatory continuing legal education credit in the amount of 7.3 hours.

AIA

This course has been approved by The American Institute of Architects for 7.5 LU's. The Seminar Group is an AIA CES Approved Provider.

IRMI

This course has been approved by the IRMI for 6.0 hours of CRIS reaccreditation credits. Credits for recorded courses not available.

Contractors & Engineers

Contractors and engineers may qualify for continuing education hours through the American Institute of Constructors or the Construction Management Association of America.

Location

Hilton Garden Inn Midtown / Homewood Suites

97 10th Street NW
(Corner of 10th ST NW and Williams ST NW)
Atlanta, GA 30309

Phone: 404-524-4006

The seminar is located in the Piedmont/Park room. Please call the venue for directions/questions.

PARKING

On-site parking is available. Please contact the venue for more information.

Fees

Live Seminar:

Attorney	\$549.00
Government / Tribal / Non-Profit	\$449.00
Other Professionals	\$449.00
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Pre Order On Demand:

All Sessions	\$549.00
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