



# *What You Need to Know About the Next Wave of* **Construction Defect Litigation**



**MAY 16, 2019**

WORLD TRADE  
CENTER

Portland, OR

**ACCREDITATION**

OR CLE, WA MCLE, CA  
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 continue to inflict significant losses on owners, designers, contractors, material suppliers and insurers. Some companies are changing how (and whether) they conduct business in certain markets, such as the condominium market. For all companies, the standard assumptions for risk transfer and insurance coverage no longer apply. Instead, companies are continually adjusting their practices in response to changes in market conditions 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:**

Attorneys  
Financial Planners  
Real Estate Brokers

**9:00 Introduction and Overview – The  
PDT Coming Tsunami of Defect Litigation**

**Sean C. Gay**, *Program Chair*  
*Stoel Rives LLP*

**9:10 Construction Defect Claims – Current  
Trends from the Expert’s Perspective**

The design process and the forensic process:  
how the former informs the latter; how current  
trends in building technologies may result in  
future defects

**David R. York, AIA, CSI**, Owner  
*David R. York, Architect LLC*

**10:00 Construction Defects: Top 10 Statutes  
Everyone Should Know**

Statutes of limitations; statutes of repose;  
notice of defects; certificate of merit; anti-  
indemnity statutes

**Nels J. Vulin**  
*Ball Janik LLP*

**10:45 Break**

**11:00 Claims, Contracts and the Common Law**

Breach of contract; breach of warranty; implied  
warranty of quality; indemnity; claims under  
Unlawful Trade Practices Act;  
negligence/negligent misrepresentation;  
implied warranty of habitability; breach of  
fiduciary duty; fraudulent  
concealment/fraudulent misrepresentation;  
Products Liability Act

**C. Andrew Gibson**  
*Stoel Rives LLP*

**12:00 Construction Defect Lawsuits: It’s All  
About Insurance**

A discussion of case law regarding the duty to  
defend and indemnify

**Louis A. Ferreira**  
*Stoel Rives LLP*

**12:45 Midday Break**

**2:00 Defenses That Can Make or Break A  
Case**

Statute of repose; statutes of limitations;  
application of statutes of limitations and repose  
and discovery rule; claim-specific statutes of  
limitations; failure to follow the notice of  
defects process; disclaimer of warranties;  
completion and acceptance doctrine; *Spearin*;  
betterment; anti-indemnity statutes; accrual  
provisions

**Elizabeth K. Rhode**  
*Gillaspy & Rhode PLLC*

**3:00 Break**

**3:15 The Bottom Line: Remedies in  
Construction Defect Litigation**

Lesser of cost of repair or diminution in value;  
consequential damages; rescission; diminished  
value; attorneys’ fees

**William J. Ohle**  
*Schwabe Williamson & Wyatt PC*

**4:15 Dispute Resolution from the Neutral’s  
Perspective**

Mediation and arbitration of defect claims -  
how to prepare for success

**Martha J. Hodgkinson**  
*Hodgkinson Street Mephram LLC*

**5:00 Adjourn**

# Faculty - Construction Defect Litigation



**Sean C. Gay, Program Chair**, is a partner in Stael Rives LLP's Construction & Design group. He advises clients on a broad range of matters, including project management issues, contract negotiations, public contracting issues, bid protests, and disputes. He is a former construction project manager in Washington and Hawaii and was intimately involved in the technical and financial aspects of his projects.



**Elizabeth K. Rhode** is a partner at Gillaspay & Rhode PLLC and head of the Oregon office. Her practice is focused on complex litigation with an emphasis on construction defect, property damage, and other insurance defense work. She has represented developers, general contractors, and subcontractors in matters before the Superior Courts and various arbitration services throughout Washington and Oregon.



**Louis A. Ferreira** is a partner with Stael Rives LLP, where he has practiced for the last 29 years. He has handled a broad range of high-stake cases and builds upon that experience to counsel clients on risk management, risk transfer and insurance issues. In addition to litigation, he assists clients in understanding the risks they face and advises them on procurement of insurance products.



**Nels J. Vulin** is a member of Ball Janik LLP's Construction and Litigation practice groups. He represents residential and commercial owners in construction defect claims of all types. He was selected to the Oregon Rising Stars list 2017–2018, published by *Super Lawyers Magazine*, is an active member of the legal community, and regularly speaks and publishes on areas of the law related to his practice.



**C. Andrew Gibson** is a partner in Stael Rives LLP's Real Estate, Construction, and Design Practice. He helps clients build successful projects and negotiate/resolve disputes. He is experienced in drafting and negotiating all forms of project documents, from the design phase through construction, and regularly assists clients with navigating the typical tricks and traps of contracting and insurance coverage issues.



**David R. York, AIA, CSI**, is the owner of David R. York, Architect LLC, established in 2010. The office provides full traditional architectural services including schematic design and planning, document preparation and detailing, spec writing, and construction observation/QAQC. Also provided are specialized envelope design, condition assessments, enclosure design and detailing.



**Martha J. Hodgkinson**, a partner with Hodgkinson Street Mephram LLC, has a civil litigation and trial practice in Oregon state and federal court representing attorneys, developers, contractors, real estate brokers, design professionals and public entities. She has experience in all aspects of civil litigation and trial practice, with emphasis in real estate and construction litigation, and products liability.



**William J. Ohle** is a shareholder at Schwabe Williamson & Wyatt PC. He has more than 25 years of experience representing architects and engineers in contract negotiations and disputes, construction defect litigation and regulatory investigations.

# Construction Defect Litigation

## Credits

### **OR CLE**

This course has been approved by the Oregon State Bar for 6.0 general CLE credits (Live Credits for In Person Attendance & Webcast).

### **WA MCLE**

This course has been approved for 5.25 hours of law and legal CLE credit and .75 hours of other nexus CLE credit by the Washington MCLE board. (Live Credits for In Person Attendance & Webcast). Self-Study credit will be available, specific credit amount to be determined. Go to our FAQ page for an explanation about Other CLE Credits. <http://www.theseminar.com/customer-service.aspx#product-othercredit>

**The Seminar Group is an accredited sponsor with the Washington State Bar**

### **CA CLE**

The Seminar Group is a State Bar of California approved MCLE provider; therefore, this course is approved for 6.25 general CLE credits (Live Credits for In Person Attendance & Webcast).

### **AIA**

This course has been approved by The American Institute of Architects for 6.25 LU's (Live Credits for In Person Attendance ONLY). Credits for recorded courses not available. 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 (Live Credits for In Person Attendance ONLY). 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

### **World Trade Center**

121 SW Salmon St  
Two World Trade Center Building  
Portland, OR 97204

Phone: 503-464-8688

The Seminar is located in the Skybridge A & B room. Please call the venue for directions/questions

#### **SLEEPING ROOMS**

Guest rooms are available at a Special Rate at Hotel Rose, 50 SW Morrison Street, Portland, Oregon. Please call 866-866-7977 to reserve and mention the Preferred Corporate Rate.

#### **PARKING**

There is a parking garage right below the WTC building off of Taylor Street.

## Fees

### **Live Seminar:**

Attorney	\$549.00
Government / Tribal / Non-Profit	\$449.00
Other Professionals	\$449.00
Student / Professor	\$349.00

### **Live Webcast:**

Attorney	\$549.00
Government / Tribal / Non-Profit	\$449.00
Other Professionals	\$449.00
Student / Professor	\$349.00

### **Pre Order On Demand:**

All Sessions	\$549.00
Single Session	\$99.00

### **Pre Order MP3 Download:**

All Sessions	\$549.00
Single Session	\$99.00

### **Pre Order DVD Homestudy:**

All Sessions	\$599.00
--------------	----------

### **Pre Order CD Homestudy:**

All Sessions	\$599.00
--------------	----------

### **Pre Order Materials Download:**

All Sessions	\$169.00
--------------	----------

### **Pre Order Printed Materials:**

All Sessions	\$199.00
--------------	----------

Go to our website to register:

[www.TheSeminarGroup.net](http://www.TheSeminarGroup.net) or call our office at 800-574-4852 or 206-463-4400. You can also contact us at [info@theseminar.com](mailto:info@theseminar.com) or by mail to The Seminar Group, P.O. Box 523, Vashon, WA 90870.

**CANCELLATION POLICY:** We will refund your tuition, less a \$50 cancellation charge, if we receive your cancellation by 5/10/19. No refunds will be given after this date. Please note that if you do not cancel by the deadline and/or do not attend, you are still responsible for payment.

### **Register at**

**[TSGregistration.net/5943](http://TSGregistration.net/5943)**