

Construction Defect Litigation: From A to Z

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› *The Building Blocks of Defect Liability and Standards of Care*

HARTFORD, CONNECTICUT
February 5, 2013

PRESENTED BY

Frank J. Gatlin
Todd R. Regan
Richard C. Robinson
Peter E. Strniste Jr.

CONTINUING EDUCATION

CLE - 6.0 incl. 1.0 ethics (pending)

IACET - 0.6

See inside for details!

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SEMINAR OUTLINE

ANATOMY OF A DEFECT:

WHAT IT IS AND THE RULES THAT APPLY

9:00 - 10:00, *Frank J. Gatlin*

- What Constitutes a "Defect?"
(Includes: Construction Defect vs. Nuisance Claim, Defect Categories, Common Types of Patent and Latent Defects)
- Federal, State, and Local Regulations Regarding Construction Defects
(Includes: Building Codes and Standards, Warranties and Magnuson-Moss, Miller Act, "Right to Repair/Right to Cure" Law, Statute of Limitations and Repose, Assignment of Claims, State and Local Regulations)
- Determining Standards of Care

INDEMNITY PROVISIONS:

IS THE SUBCONTRACTOR RESPONSIBLE? WHAT ABOUT THE DESIGN PROFESSIONAL?

10:15 - 11:30, *Richard C. Robinson*

- Key Contract and Subcontract Provisions, Including AIA and Consensus DOCS
- The Difference Between "Defend," "Hold Harmless" and "Indemnity"
- The Role of "Additional Insured"
- Common Law Indemnity
- Economic Loss Rule
- Waiver, Variation and Estoppel
- Standards of Care for Design Professionals
- Joint and Several Liability

CASE LAW UPDATES:

RULINGS THAT AFFECT YOUR WORLD

11:30 - 12:15, *Peter E. Strniste Jr.*

INSURANCE: COVERED VS. UNCOVERED?

1:15 - 2:15, *Todd R. Regan*

- Commercial General Liability Insurance – Coverage Issues
- Duties of Defense
- Indemnity
- Insurance Debates
(Includes: Fortuity Principles, Known Loss, Occurrence Definitions, Four Corners Rule, Contra Proferentem Rule, Rule of Reasonable Expectations, Illusory Coverage Doctrine)
- Surety Bonds
- Wrap Insurance Options:
OCIP or CCIP
- Case Law:
Class Action Suits

LITIGATION: ALLEGATIONS, DEFENSES, AND PROVING YOUR CASE

2:30 - 3:30, *Richard C. Robinson*

- Common Allegations and Defenses
- Notice of Claim
- Discovery
- Jury Instructions
- Essential Evidence:
Preservation and Extrapolation
- Expert Depositions
- Procedural Issues
- Damages: What Can be Recovered?
- Alternative Dispute Resolution

ETHICAL CONSIDERATIONS

3:30 - 4:30, *Peter E. Strniste Jr.*

- Joint Defenses
- Conflict of Interest
- Representing Multiple Parties
- How Lawyers can Avoid Being Witnesses

*If needed, the above agenda may be changed to best accommodate all of our attendees.

SEMINAR OVERVIEW

Discover the Key Elements That Can Make or Break a Construction Defect Case

The field of construction defect litigation is growing and changing at a rapid pace. Get updates on new rulings and laws from experienced professionals in the field, and walk through the profoundly complex and often emotionally-charged construction defect dispute – from defining a defect, determining liability, uncovering insurance nuances, and taking your case to trial. **Register today!**

BENEFITS OF ATTENDING

- Stay in-the-know on the quickly changing legislation, new rulings and reinterpretations of construction defect laws.
- Argue your case with confidence: Know the nuances of the regulations that define and govern construction defects.
- Combine your intimate understanding of defect regulations with building code and construction plan analysis to determine standards of care, one of the keys to winning your case.
- Protect your client's legal and financial interests by understanding the obligations behind equitable and contractual indemnification.
- Become familiar with plaintiff and defense perspectives on the legal responsibilities of all parties involved in construction.
- Learn how to effectively manage liability risk by knowing insurance coverage variations and limitations.
- Discover how to lower liability risks with easy-to-administer tips from a professional in the field.
- Examine how OCIP and CCIP can be valuable insurance options in today's construction lawsuit environment.
- Grab the competitive advantage during defect disputes by knowing what the opposing side typically argues.
- Discover what pretrial preparation will pave the way for a successful verdict.

CREDIT INFORMATION

The specific continuing education credit(s) listed are for attending the live seminar. For additional questions regarding continuing education credits, please contact us at **866-240-1890**.

CLE - 6.0 (pending) - This course is currently pending with the CBA Academy of Continuing Professional Development.



IACET - 0.6 - NBI, Inc. has been approved as an Authorized Provider by the International Association for Continuing Education and Training (IACET), 1760 Old Meadow Road, Suite 500, McLean, VA 22102. In obtaining the approval, NBI, Inc. has demonstrated that it complies with the ANSI/IACET Standard which is widely recognized as the Standard of good practice internationally. As a result of the Authorized Provider accreditation status, NBI, Inc. is authorized to offer IACET CEUs for its programs that qualify under the ANSI/IACET Standard. As an IACET Authorized Provider, NBI, Inc. offers CEUs for its programs that qualify under the ANSI/IACET Standard. NBI, Inc. is authorized by IACET to offer 0.6 CEUs for this program. (Provider #4558).

Upon completion of this course, attendee will be able to:

1. Describe what constitutes a construction defect.
2. List at least two contract or subcontract provisions that are critical for indemnity.
3. Cite two court decisions that reinterpret construction defect laws.
4. Effectively interpret insurance policy language to explain what construction defects are covered under the standard policy.
5. State three jury instructions that are critical in construction defect cases.
6. Distinguish between ethical and unethical practices.

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- Jan. 30** Preparing to File 2012 Taxes: What Lawyers Can Deduct (61794)
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FRANK J. GATLIN is at Navigant Consulting Inc., and is a director in the global construction practice. He has more than 42 years of experience in architectural design, construction management, and dispute resolution. Mr. Gatlin has extensive experience in the analysis and resolution of technical disputes involving design deficiencies, schedule, cost analysis, disruption, errors and omissions, acceleration, defective construction, standard of care, constructive changes, productivity, termination and damages. In addition, he has significant experience in the analysis and resolution of construction claims involving environmental and hazardous material issues. Mr. Gatlin has prepared technical reports and provided expert testimony in depositions, mediation, arbitration, and at trial. He is certified by the National Council of Architectural Registration Board (NCARB); is a registered architect in 16 states; and is licensed to practice architecture in the states of New York, New Jersey, Illinois, Pennsylvania, Maryland and Mississippi.

TODD R. REGAN is counsel with the firm of Robinson & Cole LLP, whose practice is dedicated to construction and surety law and business litigation. Mr. Regan regularly advises contractors, construction managers, owners, sureties and design professionals on matters such as project delays and inefficiencies; disputed change orders; unfair trade practices and bad faith; mechanic's liens and bond claims; and contract negotiation. He has significant experience with alternative dispute resolution, including mediation and arbitration; and has frequently appeared before the state and federal courts of Connecticut and Massachusetts, including the First Circuit Court of Appeals. Mr. Regan earned his B.A. degree, magna cum laude, from Boston College and his J.D. degree, with honors, from the University of Connecticut School of Law. He is a member of the Connecticut (Construction Section) and American bar associations.

RICHARD C. ROBINSON is an attorney with the Hartford law firm of Pullman & Comley LLC, where he practices in the area of business litigation, including the litigation of construction and employment disputes. He heads the firm's construction law and litigation sections; and has resolved hundreds of business litigation cases, both through trial and settlement. He is a frequent speaker at construction law seminars and publishes in the field. Mr. Robinson is appointed by the judges of the Federal District Court in Connecticut as a special master and regularly serves in that capacity in employment and construction cases. He is a James W. Cooper fellow of the Connecticut Bar Foundation. Mr. Robinson is a member of the Hartford County, Connecticut and American (member, Labor Law and Litigation sections and Forum Committee on the Construction Industry) bar associations. He earned his B.A. degree from the University of Pennsylvania and his J.D. degree, with honors, from the University of Connecticut School of Law.

PETER E. STRNISTE JR. is an attorney at Robinson & Cole LLP. Mr. Strniste focuses his practice in construction law, surety law and commercial litigation. He has represented an array of clients in numerous litigation matters, in both federal and state courts, as well as arbitrations and mediations. In the construction context, to which he devotes most of his practice, he often represents project owners, construction managers, subcontractors and sureties. Some of the types of actions which Mr. Strniste has handled include breach of contract; fraud; tortious interference with business interests; negligence of design and other construction professionals; commercial insurance matters; affirmative delay and inefficiency claims; wrongful termination; claims against payment and performance bonds on public and private projects; unfair trade practices and equitable causes of action and remedies, such as injunctions. He presently serves as the treasurer of The Connecticut Surety Association and is actively involved in several other construction trade organizations. Mr. Strniste is a frequent lecturer on his areas of practice. He earned his B.S. degree from Old Dominion University and his J.D. degree from the University of Pittsburgh School of Law, where he was a two time recipient of the Owens Fellowship Award, and a member of the Appellate Moot Court Executive Board. Mr. Strniste is a member of the Connecticut Bar Association.

HARTFORD FEBRUARY 5

Ramada Plaza Hartford Downtown
50 Morgan Street, Hartford CT 06120
Phone: 860-549-2400

SCHEDULE

REGISTRATION TIME 8:30 — 9:00 am

SEMINAR TIME 9:00 am — 4:30 pm

Complimentary snacks and refreshments are provided.

Lunch is on your own.

TUITION

\$359 for the first registrant

\$349 for each additional registrant

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