

THE BASIC COURSE IN TEXAS CONSTRUCTION LAW

The Westin Galleria Dallas
Dallas, Texas
December 9 & 10, 2021



Earn 14.25 MCLE Hours
including 1.00 Hour Ethics

Designed for
Texas Lawyers and
Construction Industry
Members and
Professionals



Sponsored by
THE CONSTRUCTION LAW FOUNDATION OF TEXAS
&

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 Foundation of Texas* and

The Construction Law Section of the State Bar of Texas

DECEMBER 9 & 10, 2021

The Westin Galleria Dallas • 13340 Dallas Pkwy. • Dallas, Texas 75240

This course has been approved for 14.25 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 Construction Law, 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 registration.

CPAs may obtain 17.10 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 submitted for 14.0 hours of General credit (all license types.) Approved hours may vary.

The organizers of this conference believe there are approximately 14.25 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, DECEMBER 9, 2021

8:00 a.m. **Late Registration** – Ballroom Foyer, The Westin Galleria Dallas, 13340 Dallas Pkwy., Dallas, TX 75240
Telephone: (972) 934-9494

8:00 a.m. **Continental Breakfast**

8:50 a.m. **Welcoming Remarks**

Stephanie L. O'Rourke, San Antonio (*Foundation President*)
Andrew S. Harris, Austin (*Presiding Officer*)

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 L. Marrone, San Antonio

10:00 a.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.

Ashley C. Cummings, Dallas

11:00 a.m. **Morning Break**

- 11:15 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.
Jerry M. Negrete, Austin
- 12:15 p.m. **LUNCHEON:** *Tickets for registrants may be purchased for \$25. Please purchase your tickets in advance. Tickets will not be sold at the door.*
What Works and Doesn’t Work in Construction Mediations (and Arbitrations) – 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.
Fred D. Wilshusen, Dallas
- 1:15 p.m. **Break**
- 1:30 p.m. **Arbitration** – Arbitration is designed to be a faster and more efficient alternative to the traditional court system. In addition, a majority of construction contracts now contain arbitration provisions. This session covers the logistics, rules, and practical considerations involved in arbitration.
Megan R. Kateff, Austin
- 2:15 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.
Brittany C. Cooperider, Houston
- 3:15 p.m. **Afternoon Break**
- 3:30 p.m. **Contracts Panel – Owner/GC/Sub Perspectives** – Owners, general contractors, and subcontractors each have their own pressure points and goals in negotiating their construction contracts. This panel discussion will cover some of the key issues and provisions that can help all parties allocate risks and prepare when things go awry.
Andrea A. Hight, Dallas [Owner]
Joseph L. Mira, Dallas [GC]
Kelly A. Carr, Carrollton [Sub]
- 4:45 p.m. **Adjourn to Reception**

FRIDAY, DECEMBER 10, 2021

- 8:00 a.m. **Continental Breakfast**
- 8:30 a.m. **Top Cases Every Construction Lawyer Should Know** – This topic will familiarize the audience with the fundamental cases in construction law. These cases are often cited, often utilized, and often debated. In any event you simply must know these cases and how they shape Texas construction law.
James S. Richards, Houston
- 9:30 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.
Katherine K. Valent, Frisco
- 10:15 a.m. **Morning Break**
- 10:30 a.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.
Stephanie S. Harrison, Fort Worth

- 11:30 a.m. **Project Documents** – This presentation focuses on the documents commonly used on commercial construction projects. The overview of key documents should help the practitioner understand the flow of a construction project, along with documents that may be of value in litigation.
Shaina M.H. Swanson, Temple
- 12:30 p.m. **Break**
- 12:45 p.m. **LUNCHEON:** *Tickets for registrants may be purchased for \$26. Please purchase your tickets in advance. Tickets will not be sold at the door.*
- 1.00 Ethics Credit
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.
Benjamin Lee Weible, Rockwall
- 1:45 p.m. **Residential Construction – A Holistic Approach** – Practical advice for owner, contractor, and subcontractor clients regarding critical, unique issues for residential construction projects, contracts, and disputes, including an overview of the Residential Construction Liability Act (RCLA).
Mason P. Hester, Houston
- 2:45 p.m. **Afternoon Break**
- 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.
Erika L. Bright, Dallas
- 4:00 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 help provide decision-makers with “informed consent” in deciding whether or not to cross this threshold.
Steve Boline, Dallas
- 4:45 p.m. **Adjourn**

CONFERENCE FACULTY

Stephen Boline, Dallas
Slates Harwell, LLP

Erika L. Bright, Dallas
Wick Phillips

Kelly A. Carr, Carrollton
The Brandt Companies, LLC

Brittany C. Cooperrider, Houston
Andrews Myers, P.C.

Ashley C. Cummings, Dallas
Winstead PC

Stephanie S. Harrison, Fort Worth
Harrison Steck, P.C.

Mason P. Hester, Houston
Munsch Hardt Kopf & Harr, P.C.

Andrea A. Hight, Dallas
Winstead PC

Megan R. Kateff, Austin
Allensworth & Porter, LLP

Steven L. Marrone, San Antonio
Benjamin, Vana, Martinez & Cano, LLP

Joseph L. Mira, Dallas
Mira | Blanton PLLC

Jerry M. Negrete, Austin
The Chapman Firm PLLC

James S. Richards, Houston
Cokinos | Young

Shaina M.H. Swanson, Temple
Sanderford & Carroll P.C.

Katherine K. Valent, Frisco
Scheef & Stone, LLP

Benjamin L. Weible, Rockwall
Lamberth Ratcliffe Covington PLLC

Fred D. Wilshusen, Dallas
Thomas, Feldman & Wilshusen, L.L.P.

Foundation President / Section Chair
Stephanie L. O'Rourke, San Antonio
Cokinos | Young

Presiding Officer
Andrew S. Harris, Austin
Andrews Myers, P.C.

GENERAL INFORMATION

The Westin Galleria Dallas — A limited number of rooms have been reserved at The Westin Galleria Dallas at the special rate of \$179.00 per night plus taxes for a single/double. The hotel is located at 13340 Dallas Parkway Dallas, TX 75240. **The hotel deadline is November 17, 2021 or until the room block is exhausted, whichever comes first.** You must request the “Construction Law Basics of Texas” group rate in order to obtain a room in our room block. Please call the hotel directly at 1-(888)-627-8457 or visit <https://tinyurl.com/Basics21Hotel>. 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. *No audio/video version is available.* Your registration includes either the printed 3-ring binder or the USB drive version of the course materials.

Registration by Telephone or Online — You may register by calling (512) 451-6960 or visiting www.constructionlawfoundation.org. Phone and online registrations require an AMERICAN EXPRESS, VISA or MASTERCARD number, expiration date, security code and billing address with zip code.

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: The Construction Law Foundation of Texas
The Basic Course in Texas Construction Law 2021
P.O. Box 4646
Austin, Texas 78765-4646

FAX to: 512/451-2911
Phone: 512/451-6960
Online: www.constructionlawfoundation.org
(Phone, Fax and Online Registrations must be accompanied by American Express, Visa or MasterCard Information.)

Make checks payable to: The Construction Law Foundation of Texas

Please register me for the course as follows:

- Pre-Registration fee for CL Section Members (Due by 5 p.m. November 26) \$ 395.00
 Pre-Registration fee for Non Members (Due by 5 p.m. November 26) \$ 445.00
 Registration fee (After 5:00 p.m. November 26 and before 5:00 p.m. December 3)..... \$ +50.00
 Late Registration fee (After 5:00 p.m. December 3 and at the door)..... \$+100.00
___ Thursday Luncheon Tickets at \$25.00 each \$ _____
___ Friday Luncheon Tickets at \$26.00 each \$ _____
 Construction Law Section Dues (*eligible for the discounted member registration fee*)..... \$ 30.00

Course Materials: Choose ONE --> USB Version or Printed Version (3-Ring Binder)

Please make your selection above or you may purchase both versions for an additional fee below.

- Both USB & Printed Version at \$50 + .0825 tax..... \$ 54.13

I cannot attend the course. Please forward the following:

- ___ Course Materials Only (USB or Printed) at \$160 + .0825 tax \$ 173.20

TOTAL ENCLOSED \$ _____

No refunds after 5:00 p.m., Friday, December 3, 2021. See cancellation policy above.
(Please Print)

Name _____

Firm _____

Address _____

City _____ State _____ Zip _____

Telephone _____ Fax _____

E-mail _____ Bar Card No. _____

Make Checks payable to: The Construction Law Foundation of Texas

Please Charge: AMEX VISA MASTERCARD

Card No. _____ Exp. Date _____

Name on Card _____ 3 or 4 Digit Security Code _____

Authorized Signature _____

Billing Address (incl. Zip Code) _____

Construction Law
Foundation of Texas
P.O. Box 4646
Austin, Texas 78765-4646



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.

December 9 & 10, 2021

The Westin Galleria Dallas * Dallas, Texas

PRESORTED STANDARD
U.S. POSTAGE
Paid
Austin, Texas
Permit No. 1323