

**2010 Construction Law Conference**  
**February 18-19, 2010 • • Austin,**  
**September 23-24, 2010 • Belo Mansion • Dallas, TX**

**Thursday Morning, Sep. 23, 2010**

8:00 am In Dallas Only	<b>Registration Opens</b>  Includes continental breakfast.
8:50 am In Dallas Only	<b>Welcoming Remarks</b>
9:00 am In Dallas Only 0.75 hr	<b>Construction Industry Basics: What Contractors Expect Their Lawyers to Know, or at Least Wish They Did</b>  In any commercial practice area, attorneys with a working knowledge of their clients' business issues and concerns are better equipped to more effectively handle their legal affairs. The construction industry is unique in many ways. This presentation addresses the basic inner workings of the industry, including the typical relationships between the various contracting parties, the standard practices, terminology and documents, and the most common legal issues that arise.  M. Gavin McGee, Attorney at Law - Bellaire, TX
9:45 am In Dallas Only 0.75 hr	<b>RCLA Refresher and Update: Litigation is Back!</b>  Undoubtedly, with the demise of the TRCCA, the clock on how residential construction disputes are resolved has been turned back. Most homeowners would say that's good news. Is it time to turn the clock back even further?  Commentators: Charles J. Cain, Cain & Skarnulis LLP - Austin, TX Mark S. McQuality, Shackelford, Melton & McKinley, LLP - Dallas, TX Commentators: Anne P. Stark, The Law Office of Anne P. Stark - Dallas, TX
10:30 am In Dallas Only	<b>Break</b>
10:45 am In Dallas Only 0.75 hr	<b>Damages in Construction Litigation: Current Issues and Case Law</b>  This session covers damages recoverable by both contractors and owners related to construction projects. With respect to contractors, an overview is presented regarding damages for delay claims, lost profits, increased overhead, quantum meruit and wrongful termination by owner. Regarding owners, this session covers damages for unexcused delays, cost to complete after termination or abandonment, loss of use, lost profits, and damages for construction defects, including cost of repair versus diminished value.  Clayton C. Cannon, Stumpf Cannon Fasthoff PC - Houston, TX

11:30 am In Dallas Only 0.50 hr	<p><b>What Do You Mean I'm Not Entitled to Recover My Damage? The Ramifications of Clauses that Limit Liability in Construction Contracts</b></p> <p>This session analyzes the ramifications of clauses that limit liability in construction contracts, including clauses covering Liquidated Damages, No Damages for Delay, and Waiver of Consequential Damages.</p> <p>Allison J. Snyder, Porter &amp; Hedges, LLP - Houston, TX</p>
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## Thursday Afternoon, Sep. 23, 2010

### Presiding Officer:

In Dallas: **Steven Eugene Kennedy**, McGuire Craddock & Strother PC - Dallas, TX

12:00 pm In Dallas Only	<b>Pick up Box Lunch</b>
12:15 pm In Dallas Only 0.75 hr	<p><b>What's Ahead for the Construction Industry?</b></p> <p>This overview of the macroeconomics of the construction industry provides background to explore the changes that are transforming the business of construction. The presentation also looks into the risks and challenges that face the future of the design and construction industry.</p> <p>Karl F. Almstead, Turner Construction Company - New York, NY</p>
1:00 pm In Dallas Only	<b>Break</b>
1:15 pm In Dallas Only 0.50 hr	<p><b>All Good Things Must Come to an End: Legal Issues in Construction Contract Terminations</b></p> <p>When can an owner terminate a contract for mere convenience? What does it take to justify termination "for cause"? Under what conditions can a termination be converted from "for cause" to "for convenience"? And, what are the implications of the distinction? A discussion of these questions and more involving construction contract terminations.</p> <p>C. A. (Joe) Davis, Brown McCarroll, L.L.P. - Austin, TX</p>
1:45 pm In Dallas Only 0.50 hr	<p><b>Escalation Clauses: Dealing with Changes in the Price of Materials and Navigating the Battle of the Forms</b></p> <p>Coverage of the standard contract clauses applicable to price escalation, applicable statutes, the case law covering these issues and practical advice for dealing with price escalation risk, both pre- and post-contract.</p> <p>William B. "Ben" Westcott, Andrews Myers Coulter &amp; Hayes, P.C. - Houston, TX</p>
2:15 pm In Dallas Only 1.00 hr	<p><b>The Basics and Beyond: Drafting and Negotiating Key Clauses in Construction Contracts</b></p> <p>From "must-have" provisions to "gotchas" that should be avoided, this presentation covers a wide range of contract issues that arise in both standardized forms and manuscript agreements.</p> <p>Matthew David Beshara, Ford Nassen &amp; Baldwin P.C. - Dallas, TX Steven Eugene Kennedy, McGuire Craddock &amp; Strother PC - Dallas, TX</p>

3:15 pm In Dallas Only	<b>Break</b>
In Dallas Only	<b>GREEN BUILDING: DESIGN, CERTIFICATION, CONTRACTS, WARRANTIES AND LIABILITIES</b>
3:30 pm In Dallas Only 0.83 hr	<p><b>LEED 101 and Beyond: Incentives, Design, Construction Pitfalls, Certifications and Contracts</b></p> <p>A panel discussion on the design issues, contracts and certifications for green and sustainable development that includes a look at the most common green standards and how they are used to certify green buildings. The panel also comments on the financial incentives driving developers to go “green” and takes a look at some of the possible challenges with this type of construction—and what you can do to avoid those challenges.</p> <p>Matthew J. DeVries, Stites &amp; Harbison PLLC - Nashville, TN Jeffrey H. Peters, Rimkus Consulting Group, Inc. - Houston, TX</p>
4:20 pm In Dallas Only 0.75 hr	<p><b>Liability and Litigation Issues Arising from Green Building and LEED Certification</b></p> <p>Are you prepared to help your clients understand and deal with the risks involved in the project seeking LEED certification? Ever heard of “greenwashing”? This session examines many of the legal issues related to green building and projects seeking LEED certification, including contract provisions, warranties, insurance and potential litigation.</p> <p>Cathy Lilford Altman, Carrington, Coleman, Sloman &amp; Blumenthal L.L.P. - Dallas, TX Dale E. Butler, Butler Law Firm, PC - Flower Mound, TX</p>
5:05 pm In Dallas Only	<b>Adjourn</b>

## Friday Morning, Sep. 24, 2010

### Presiding Officer:

In Dallas: **Michael B. Gerstle**, Gerstle, Minissale & Snelson, L.L.P. - Dallas, TX

8:00 am In Dallas Only	<p><b>Conference Room Opens</b></p> <p>Includes continental breakfast.</p>
8:30 am In Dallas Only 0.50 hr	<p><b>Current Developments and Practice Tips Involving Liens in Place</b></p> <p>A discussion of issues that arise once the lien is in place, including suit to foreclose the lien, fights with lenders over removables, what materials constitute removables and protecting lien rights when the owner files for bankruptcy.</p> <p>Richard E. Schellhammer, Goins, Underkofler, Crawford &amp; Langdon, L.L.P. - Dallas, TX</p>
9:00 am In Dallas Only 0.50 hr	<p><b>Current and Emerging Issues in Litigation Involving Design Professionals</b></p> <p>Recent trends in claims against design professionals for defective design or contract administration with emphasis on claims by contractors, including negligent misrepresentation claims. The presentation also includes defenses that may be raised by design professionals facing such claims, including the economic loss doctrine and contractual limitations of liability.</p> <p>Jeffrey A. Ford, Ford Nassen &amp; Baldwin P.C. - Dallas, TX</p>

9:30 am In Dallas Only 0.50 hr 0.25 hr ethics	<b>Construction Litigation, Part I: Getting and Keeping the Coverage</b>  This session examines construction liability including pleading into coverage, defending claims and allocating liability between parties.  Michael W. Huddleston, Shannon, Gracey, Ratliff & Miller LLP - Dallas, TX
10:00 am In Dallas Only	<b>Break</b>
10:15 am In Dallas Only 1.25 hrs 0.25 hr ethics	<b>Construction Litigation, Part II: Effective Damage Claims and Use of Forensics Experts</b>  The successful resolution of construction defect claims and litigation relies heavily on the development and opinions of the experts. This panel addresses issues and tips in identifying and qualifying the experts needed, developing and using effective investigation data and protocols, and avoiding <i>Daubert/ Robinson</i> challenges. The expert and attorney panel discusses strategies utilized in past cases that have proven successful in resolving disputes involving multi-party complex litigation.  <b>Please note:</b> Fifteen(15) additional minutes have been allocated for this session. It will now conclude at 11:30 a.m., instead of 11:15 a.m.  Michael B. Gerstle, Gerstle, Minissale & Snelson, L.L.P. - Dallas, TX Commentator: Michael W. Huddleston, Shannon, Gracey, Ratliff & Miller LLP - Dallas, TX Mark McGivern, CCA, LLC - Bedford, MA Gary Zwayer, Wiss, Janney, Elstner Associates, Inc. - Northbrook, IL
11:30 am In Dallas Only 0.75 hr 0.25 hr ethics	<b>Construction Litigation, Part III: Trying a Construction Defect Case</b>  Two seasoned trial lawyers from both sides of the docket share their insights on how to win jury trials in construction cases.  <b>Please note:</b> This session now begins at 11:30 a.m., previously scheduled to begin at 11:15 a.m.  William J. Chriss, Law Office of Willam J. Chriss, P.C. of counsel to Gravely & Pearson, L.L.P. - Austin, TX Marc A. Young, Cokinos, Bosien & Young - San Antonio, TX

## Friday Afternoon, Sep. 24, 2010

### Presiding Officer:

In Dallas: **C. A. (Joe) Davis**, Brown McCarroll, L.L.P. - Austin, TX

12:15 pm In Dallas Only	<b>Lunch</b>  Pick up box lunch included in conference registration fee.
12:30 pm In Dallas Only 1.00 hr ethics	<b>Ethics Issues for Construction Lawyers: Conflicts, Settlement Discussions, Liability Allocations and the Proposed New Texas Rules</b>  A look at the substance and potential impact of recent changes to the disciplinary rules and the impact they will have on construction attorneys.  <b>Please note:</b> The luncheon presentation now begins at 12:30 p.m., previously scheduled to begin at 12:15 p.m.  Kennon Peterson, Supreme Court of Texas - Austin, TX

1:30 pm In Dallas Only	<b>Break</b>
1:45 pm In Dallas Only 1.25 hrs ethics	<p><b>State of the Art Dispute Resolution: ADR, Mediation and Arbitration—Lessons from Construction Disputes</b></p> <p>An interactive panel of experts from the attorney, expert, insurance and neutral perspectives share some new thoughts on some old processes.</p> <p><b>Please note:</b> This session now begins at 1:45 p.m., previously scheduled to begin at 1:30 p.m.</p> <p>Moderator: Karl Bayer, Dispute Resolution Expert - Austin, TX</p> <p>Panelists: Eileen Jenkins, United States Liability Insurance Group - Wayne, PA</p> <p>Panelists: Mark McGivern, CCA, LLC - Bedford, MA</p> <p>Panelists: Glen Wilkerson, Davis &amp; Wilkerson - Austin, TX</p> <p>Panelists: Sherrie Wirth, The Exhibit Company - Austin, TX</p>
3:00 pm In Dallas Only	<b>Adjourn</b>