

# THE BASIC COURSE IN TEXAS CONSTRUCTION LAW

The Hyatt Regency Austin  
Austin, Texas  
December 13 & 14, 2018



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 13 & 14, 2018

The Hyatt Regency Austin • 208 Barton Springs Road • Austin, Texas 78704

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. This course has been approved for 14.00 hours of General credit (all license types).

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 13, 2018

- 8:00 a.m. **Late Registration** – Ballroom Foyer, The Hyatt Regency Austin, 208 Barton Springs Rd., Austin, TX 78704  
Telephone: (512) 477-1234
- 8:00 a.m. **Continental Breakfast** – *Sponsored by Nelson Forensics, LLC*
- 8:50 a.m. **Welcoming Remarks**  
Matthew J. Sullivan, Austin (*Foundation President*)  
Cara D. Kennemer, Fort Worth (*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.  
Andrew S. Harris, Austin
- 10:00 a.m. **Coffee Break** – *Sponsored by The VERTEX Companies, Inc.*
- 10:15 a.m. **Contracts From the Owner's Perspective** – Learn the key clauses and provisions that will help an owner extract maximum benefit from the general contractor that it hires - and pays - for the construction project.  
S.W. "Whitney" Knight, Austin

- 11:00 a.m. **Contracts From the General Contractor's Perspective** – General contractors have their own pressure points and goals in negotiating their construction contracts. This presentation will cover some of the key issues and provisions that can help prime contractors create a road map for on-the-job conduct and remedies when things go awry.  
John C. Warren, Houston
- 12:15 p.m. **LUNCHEON:** Discounted tickets available to registrants for \$16 each. *Sponsored by Interface Consulting International, Inc.*
- 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.  
Allen V. Wilson, San Antonio
- 1:30 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.  
Douglas P. Skelley, Austin
- 2:15 p.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.  
Kenneth E. Stephens, Jr., Houston
- 3:00 p.m. **Afternoon Break** – *Sponsored by The Rhodes Group*
- 3:15 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.  
Bethany F. Beck, San Antonio
- 4:00 p.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.  
Jeffrey S. Chapman, Austin
- 4:45 p.m. **Adjourn to Reception** – *Sponsored by Rimkus Consulting Group, Inc.*

## FRIDAY, DECEMBER 14, 2018

- 8:00 a.m. **Continental Breakfast**
- 8:30 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.  
William L. Erwin, AIA, Austin
- 9:30 a.m. **Schedules and Preparation and Analysis of Construction Claims** – Any construction practitioner should know the nuts and bolts of construction claims, including how to prepare and prosecute an affirmative claim. This topic will cover the key elements of claim preparation and arrows for the quiver in asserting or defending against claims.  
Elliot Clark, Austin
- 10:30 a.m. **Coffee Break** – *Sponsored by FTI Consulting, Inc.*

- 10:45 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.  
Megan R. Kateff, Austin
- 12:00 Noon     **LUNCHEON:** *Tickets for registrants may be purchased for \$26. 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.  
R. Carson Fisk, Austin
- 1:15 p.m.     **The Residential Construction Liability Act** – An explanation of the Texas Residential Construction Liability Act and how to assert and defend a residential construction defect claim.  
Nicholas S. Bressi, Austin
- 2:15 p.m.     **Afternoon Break**
- 2:30 p.m.     **The Subcontract: With Emphasis on Key Clauses from the General Contractor's and Subcontractor's Perspectives** – Learn about the key subcontract clauses and how they can help clarify responsibilities, define rights and remedies, and allocate risk where the parties intend it to be.  
Steven T. Hardt, Austin
- 3:30 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.  
Stephanie H. Cook, Austin
- 4:30 p.m.     **Adjourn**

## CONFERENCE FACULTY

Bethany F. Beck, San Antonio  
The Gardner Law Firm, P.C.

Nicholas S. Bressi, Austin  
Law Office of Nicholas Bressi

Jeffrey S. Chapman, Austin  
The Chapman Firm PLLC

Elliot Clark, Austin  
Winstead PC

Stephanie H. Cook, Austin  
Cokinos | Young

William L. Erwin, AIA, Austin  
The Chapman Firm PLLC

R. Carson Fisk, Austin  
Andrews Myers, P.C.

Steven T. Hardt, Austin  
Nossaman LLP

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

Megan R. Kateff, Austin  
Allensworth & Porter, LLP

S.W. "Whitney" Knight, Austin  
Allensworth & Porter, LLP

Douglas P. Skelley, Austin  
Shidlofsky Law Firm PLLC

Kenneth E. Stephens, Jr., Houston  
Stephens PLLC

John C. Warren, Houston  
Cokinos | Young

Allen V. Wilson, San Antonio  
Sanderford & Carroll P.C.

### ***Foundation President / Section Chair***

Matthew J. Sullivan, Austin  
DuBois Bryant & Campbell, LLP

### ***Presiding Officer***

Cara D. Kennemer, Fort Worth  
Underwood Law Firm, P.C.

### ***Conference Sponsors also include:***

\* **Flash Drives** - Sponsored by Spire Consulting Group, LLC

\* **Internet** - Sponsored by Exponent

\* **Name Badge Lanyards** - Sponsored by HSSK

\* **Notepads** - Sponsored by Bert L. Howe & Associates, Inc.

\* **Tote Bags** - Sponsored by Synergen

## GENERAL INFORMATION

**The Hyatt Regency Austin** — A limited number of rooms have been reserved at The Hyatt Regency Austin at the special rate of \$169.00 per night plus taxes for a single/double. The hotel is located at 208 Barton Springs Road, Austin, TX 78704. **The hotel deadline is November 20, 2018 or until the room block is exhausted, whichever comes first.** You must request the “Construction Law Foundation of Texas” group rate in order to obtain a room in our room block. Please call the hotel directly at (512) 477-1234 or visit <https://book.passkey.com/go/ConstructionLawFoundation>. 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. *Only printed materials are provided.*

**Registration by Telephone or Online** — You may register by calling (512) 451-6960 or visiting [www.constructionlawfoundation.org](http://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 2018  
P.O. Box 4646  
Austin, Texas 78765-4646

**FAX to:** 512/451-2911  
**Phone:** 512/451-6960  
**Online:** [www.constructionlawfoundation.org](http://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 23) ..... \$ 395.00  
\_\_\_ Pre-Registration fee for Non Members (Due by 5 p.m. November 23) ..... \$ 445.00  
\_\_\_ Registration fee (After 5:00 p.m. November 23 and before 5:00 p.m. December 7) ..... \$ +50.00  
\_\_\_ Late Registration fee (After 5:00 p.m. December 7 and at the door) ..... \$+100.00  
\_\_\_ Thursday Luncheon Tickets at \$16.00 each ..... \$ \_\_\_\_\_  
\_\_\_ Friday Luncheon Tickets at \$26.00 each ..... \$ \_\_\_\_\_  
\_\_\_ Construction Law Section Dues (*to be eligible for the discounted member registration fee*)... \$ 30.00

*I cannot attend the course. Please forward the following:*

\_\_\_ Written course materials at \$160 + .0825 tax ..... \$ 173.20

**TOTAL ENCLOSED** ..... \$ \_\_\_\_\_

**No refunds after 5:00 p.m., Friday, December 7, 2018. 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) \_\_\_\_\_

For more information or to register online, visit [www.constructionlawfoundation.org](http://www.constructionlawfoundation.org).

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 13 & 14, 2018**  
**The Hyatt Regency Austin \* Austin, Texas**

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Austin, Texas  
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