

# THE BASIC COURSE IN TEXAS CONSTRUCTION LAW

Marriott Marquis Houston  
Houston, Texas  
December 7 & 8, 2023



Earn 13.50 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 7 & 8, 2023**

**Marriott Marquis Houston • 1777 Walker St. • Houston, Texas 77010**

This course has been approved for 13.50 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 13.0 hours of General credit (all license types.) Approved hours may vary.

The organizers of this conference believe there are approximately 13.50 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 7, 2023

8:00 a.m.      **Late Registration** – Ballroom Foyer, Marriott Marquis Houston, 1777 Walker St., Houston, TX 77010  
Telephone: (713) 654-1777

8:00 a.m.      **Continental Breakfast** – *Sponsored by Fiebig Architecture, PLLC*

8:35 a.m.      **Welcoming Remarks**  
Thomas J. Walthall, Jr., San Antonio (*Foundation President*)  
Kyle A. Zunker, San Antonio (*Presiding Officer*)

8:45 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.  
Charlotte Fletcher, Dallas

9:45 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.  
Justin D. "JD" Holzheuser, Houston

10:30 a.m.      **Morning Break** – *Sponsored by Secretariat*

10:45 a.m.  
-11:45 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.

Francis D. McWilliams IV, Houston

12:00 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.*

**Liability and Defenses for Design Professionals** – Claimants have crafted creative theories to expand the liability of architects and engineers and to avoid defenses like the economic loss rule and lack of privity. This presentation will outline the most common theories of liability and discuss substantive and procedural developments affecting claims against and defenses for architects and engineers.

Virginia E. Cox, Dallas

12:45 p.m.

**Break**

1:00 p.m.

**Contracts Panel – Owner/GC/Sub Perspectives** – Owners, general contractors, and subcontractors have their own pressure points and goals in negotiating construction contracts. This panel discussion will cover some of the key issues and provisions that can help all parties allocate risks and prepare for things that may go awry.

*Moderator:* Brittany C. Cooperrider, Houston

Cornelius M. Sweers, Houston [*Owner*]

Grant A. Jordan, Dallas [*GC*]

Bethany F. Beck, San Antonio [*Sub*]

2:15 p.m.

**Contract Termination** – One of the construction lawyer's key roles is to help the client assess the pros and cons of contract termination, usually in high-pressure circumstances. This topic covers the minefield of that process, including compliance with contractual procedures to mitigate exposure to wrongful termination claims.

Tiffany C. Raush, Houston

3:00 p.m.

**Afternoon Break** – *Sponsored by FTI Consulting, Inc.*

3:15 p.m.

**What Works and Doesn't Work in Construction Mediation** – Mediation is a chance for clients to control their own fates and save huge amounts of time and money that would be spent on discovery and trial. So why don't all cases settle? A litigator and certified mediator offers his views on both successful and ineffective mediation strategies.

Jarett J. Dillard, Houston

4:00 p.m.

**Arbitration** – Arbitration was designed to be a more efficient, less expensive, and more industry-specific alternative to the traditional court system. But is it? A former law clerk of the EDTX discusses the logistics, rules, and practical considerations involved in arbitration and how those differ from the courthouse.

Harris Huguenard, Houston

4:45 p.m.

**Adjourn to Reception** – *Sponsored by Interface Consulting International, Inc. & Nelson Forensics, LLC*

## FRIDAY, DECEMBER 8, 2023

8:00 a.m.

**Continental Breakfast** – *Sponsored by Hill International, Inc.*

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.

J. Joseph Vale, McAllen

9:30 a.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. An experienced partner and rising associate share their practical tips on the proper selection and preparation of experts, including when to recognize that you need one.

Russell W. Smith, Houston

Gabriella E. Oxford, Houston

10:15 a.m.

**Morning Break** – *Sponsored by Bryant Consultants, Inc.*

- 10:30 a.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.  
Michael W. Huddleston, Dallas
- 11:30 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 construction liens. Learn how to avoid costly mistakes, find relief in statutorily required payment bonds, and take advantage of alternative payment sources when a good project goes bad.  
Allegra S. Lezak, Houston
- 12:30 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.*  
**Public Procurement in Texas** – Public contract law is both similar to and different from the private realm. It is governed by more statutes; it is more consistent in its rules; and 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.  
Eddy H. Perez, Austin
- 1:30 p.m. **Afternoon Break** – *Sponsored by Bert L. Howe & Associates, Inc.*
- 1:45 p.m. **Residential Construction – A Holistic Approach** – Residential construction projects, contracts, and disputes present unique legal issues, in part because of the Residential Construction Liability Act (RCLA). This session will cover key issues for owners, contractors, and subcontractors in residential construction.  
Sydney M. Warren, Houston
- 2:45 p.m. **Tips on Avoiding Malpractice** – This presentation will discuss common perils encountered by practitioners as well as key strategies and day-to-day law practice management tips to help avoid malpractice claims and grievances.  
Stephanie Kunz Serrano, Dallas
- 3:45 p.m. **Adjourn**

## CONFERENCE FACULTY

Bethany F. Beck, San Antonio  
Sanderford & Carroll P.C.

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

Virginia E. Cox, Dallas  
Cobb Martinez Woodward PLLC

Jarett J. Dillard, Houston  
Reed Smith LLP

Charlotte Fletcher, Dallas  
Slates Harwell, LLP

Justin D. “JD” Holzheuser, Houston  
Peckar & Abramson, P.C.

Michael W. Huddleston, Dallas  
Munsch Hardt Kopf & Harr, P.C.

Harris Huguenard, Houston  
Jackson Walker, L.L.P.

Grant A. Jordan, Dallas  
Griffith Davison, P.C.

Stephanie Kunz Serrano, Dallas  
Fisk Attorneys, P.C.

Allegra S. Lezak, Houston  
Cokinos | Young

Francis D. McWilliams IV, Houston  
West Mermis PLLC

Gabriella E. Oxford, Houston  
Pillsbury Winthrop Shaw Pittman LLP

Eddy H. Perez, Austin  
Allensworth Law

Tiffany C. Raush, Houston  
Jones Walker LLP

Russell W. Smith, Houston  
Cokinos | Young

Cornelius M. Sweers, Houston  
Porter Hedges LLP

J. Joseph Vale, McAllen  
Atlas, Hall & Rodriguez, LLP

Sydney M. Warren, Houston  
Bradley Arant Boulton Cummings LLP

**Foundation President / Section Chair**  
Thomas J. Walthall, Jr., San Antonio  
Sanderford & Carroll P.C.

**Presiding Officer**  
Kyle A. Zunker, San Antonio  
Cokinos | Young

### Conference Sponsors also include:

- \* **Flash Drives** – Spire Consulting Group, LLC
- \* **Internet** – Rimkus Consulting Group, Inc.
- \* **Name Badge Lanyards** – Weaver
- \* **Notepads** – Thornton Tomasetti
- \* **Power Strips** – Precision Scheduling Consultants, LLC
- \* **Tote Bags** – Socotec



## GENERAL INFORMATION

**Marriott Marquis Houston** — A limited number of rooms have been reserved at The Marriott Marquis Houston at the special rate of \$239.00 per night for a single/double. The hotel deadline is **November 15, 2023** or until the room block is exhausted, whichever comes first. You must identify yourself as a participant with “The Construction Law Foundation of Texas” and ‘Basics Course in Construction Law’ in order to obtain a room from our room block. Please call the hotel directly at (713) 654-1777 or book your reservation online at <https://tinyurl.com/CLBasics23Hotel>. 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 the course materials on USB drive. The printed 3-ring binder is available to purchase for an additional fee.

**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 2023  
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 17) ..... \$ 395.00  
☐ Pre-Registration fee for Non Members (Due by 5 p.m. November 17) ..... \$ 445.00  
☐ Registration fee (After 5:00 p.m. November 17 and before 5:00 p.m. December 1)..... \$ +50.00  
☐ Late Registration fee (After 5:00 p.m. December 1 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:** Your registration fee includes the course materials on USB Drive.

**You may also purchase the printed binder version for an additional fee below.**

- ☐ Add Printed Version (3-Ring Binder) 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 1, 2023. 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 (Street+C/S/Z) \_\_\_\_\_

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 7 & 8, 2023**  
**Marriott Marquis Houston \* Houston, Texas**

PRESORTED STANDARD  
U.S. POSTAGE  
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Austin, Texas  
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