32nd ANNUAL CONSTRUCTION LAW CONFERENCE

February 28 & March 1, 2019
The La Cantera Resort & Spa
San Antonio, Texas

Earn up to 14.25 Hours MCLE Credit, including 2.25 Hours Ethics!
Applicable toward MCLE, the College of the State Bar of Texas and the Texas Board of Legal Specialization in the fields of Construction Law, Real Estate Law, Personal Injury Trial Law, Civil Appellate Law and Civil Trial Law. Eligible for Texas Department of Insurance credit and MCE credit through the Texas Real Estate Commission.

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
2:15 WON'T YOU BE MY NEIGHBOR? – A survey of issues for both contractors and owners to consider when dealing with adjacent property owners before and during construction of the project. Learn how to successfully address “good neighbor” issues such as tower crane licenses, tieback licenses, parking/staging agreements, construction easements, air rights and handling tenant claims.
Andrea A. Hight, Dallas

3:00 BREAK – Sponsored by The Rhodes Group

CONCURRENT SESSIONS - Choose Sessions A or B

Sessions A

Steven E. Kennedy, Dallas

4:15 NEGOTIATING TRICKY CLAUSES IN PRIME CONTRACTS – THE SEQUEL – This presentation revisits the 2014 conference topic providing the owner’s and contractor’s perspectives on some key prime contract provisions. Topics range from old favorites like no damage for delay clauses to more contemporary issues like price escalations from tariffs.
Robert C. Bass, Jr., Austin
John W. Slates, Dallas

Sessions B

3:30 CONTRACTING IN THE AGE OF TRUMP: CHANGES AND REAFFIRMATIONS – Not surprisingly the Trump administration has caused considerable turbulence in federal contracting. This will be a nonpartisan (really!) discussion of the good and bad aspects of what has been happening regarding regulations, Buy American Act, tariffs and other developments.
James F. Nagle, Seattle, WA

4:15 REALLY? COMPLIANCE ISSUES ON STATE AND LOCAL CONTRACT PROCUREMENTS: IMPACT OF FEDERAL AND TEXAS STATUTES – This session will discuss the latest developments in the construction industry.
Kathleen A. Barnes, McLean, VA

5:15 RECEPTION – Sponsored by Rimkus Consulting Group, Inc.

THURSDAY, FEBRUARY 28, 2019

PRESIDING OFFICER: Richard P. Flake, Houston

8:00 LATE REGISTRATION – Ballroom Foyer, The La Cantera Resort, 16641 La Cantera Pkwy., San Antonio, TX 78256, (210) 558-6500

8:30 CONTINENTAL BREAKFAST – Sponsored by Nelson Forensics, LLC

9:00 CASE LAW UPDATE – Recent case law and other developments impacting the construction industry.
Gregory M. Cokinos, Houston

10:00 STANDARD, NOT OPTIONAL: THE STANDARD OF CARE AND DESIGN PROFESSIONALS UNDER TEXAS LAW – The standard of care lies at the very heart of any claims involving architects, engineers, or other design professionals. Learn about the origins and applications of this principle, as well as perils for the unwary and cautionary tales when the standard has gone wrong.
Matthew C. Ryan, Austin

10:30 BREAK – Sponsored by The VERTEX Companies, Inc.

11:00 MIND IF I PASS-THROUGH? – Sometimes it makes sense for a general contractor to prosecute a subcontractor’s claim against an owner. This presentation will discuss the validity of pass-through claims and scope/drafting considerations associated with liquidating agreements.
John C. Warren, Houston

11:30 INSURANCE LAW UPDATE – An update on recent insurance cases that impact the construction industry.
Lee H. Shidlofsky, Austin

12:00 LUNCHEON – Discounted tickets available for $16 each. Sponsored by Interface Consulting International, Inc.
Topic: IN-HOUSE COUNSEL – GROUNDOVER DAY: MOVING PAST HACKNEYED CONTRACT NEGOTIATIONS
From damages, design responsibility, and unforeseen site conditions to antiquated retainage provisions, the “second verse, same as the first” stalemates continue in contract negotiations. In-house counsel discuss practical, reasonable compromises to make contract negotiations more efficient and equitable.
Sub Contractor: Kelly A. Carr, Carrollton Design: R. Craig Williams, Dallas Contractor: Matthew D. Beshara, Houston Owner: Shae Moore, Irving

1:00 BREAKFAST BREAKOUTS – Choose one of three sessions. Open to all registrants on a first-come, first-served basis until all seats are filled.

Breakout #1
A WALK ON THE WILD SIDE: RESIDENTIAL CONSTRUCTION ARBITRATION – The vast majority of residential disputes end up in arbitration. Residential construction arbitration, however, contains nuances not seen in commercial or industrial dispute resolution. From the demand to final hearing, we will focus on those nuances and provide tips and traps for the unwary.
Curt M. Covington, Rockwall

Breakout #2
TOP TEN EMPLOYMENT LAW DEVELOPMENTS CONSTRUCTION LAWYERS NEED TO KNOW – Learn about key changes in employment law. Topics addressed include the #MeToo movement, OSHA as well as Texas non-competition and non-solicitation law, and anti-SLAPP protection.
Christie Newkirk, Dallas

1:30 TERMINATION!! WILL IT REALLY GET YOU WHAT YOU WANT? (MAYBE WE’D BETTER TALK FIRST) – Issues with the termination process and considerations for both the upstream and downstream parties before the decision to terminate is made.
Timothy C. Ross, Houston
Allison J. Snyder, Houston

PRESIDING OFFICER: John “Alex” Huddleston, San Antonio

12:00 LUNCHEON – Tickets available for $26 each. Topic: A LOOK BEHIND THE CURTAIN – You already know that the Lonergan case is contrary to the prevailing law of the land. But the entangled family and personal relationships between the parties and decision makers makes as nothing less than a soap opera. Drawing on new research and the recently discovered original trial file, enjoy an entertaining look “behind the curtain” of the state’s most notorious construction case.
Misty H. Gutierrez, Dallas
Fred D. Wilhsbusen, Dallas

PRESIDING OFFICER: Timothy C. Ross, Houston

1:30 TWO SIDES OF THE SAME COIN? – BREACH OF CONTRACT V. BREACH OF WARRANTY – This presentation analyzes similarities and differences in breach of contract and warranty claims, including implied warranties in commercial construction, contractual warranties,
and the propriety of asserting warranty and contract causes of action in litigation.
Colbie Brazell Campbell, Dallas

Bethany F. Beck, San Antonio

3:00 BREAK – Sponsored by Inventus

3:15 RAFFLE

3:30 BETTERMENT & ECONOMIC WASTE – A discussion of limitations on the recovery of damages in construction litigation including betterment and economic waste.
David P. Benjamin, San Antonio

4:00 THIRD-PARTY PRACTICE: RISKS AND REWARDS OF RTPs vs. TPDs – Is the RTP designation underutilized by defendants? What are some unseen benefits of contractor defendants using the RTP designation versus bringing in third-party defendants? Includes a brief update on recent RTP case law.
Tracy Lynn McCreight, Austin

4:30 ADJOURN

PRESIDENT, THE CONSTRUCTION LAW FOUNDATION OF TEXAS
Matthew J. Sullivan, DuBois Bryant & Campbell, LLP, Austin

PRESIDING OFFICERS
Richard P. Flake, Richard P. Flake, PLLC, Houston
Andrew A. Hight, Winstead PC, Dallas
John Alex Huddleston, Strasburger & Price, L.L.P., San Antonio
Timothy C. Ross, Andrews Myers, P.C., Houston

CONFERENCE FACULTY
Kathleen A. Barnes
Watt, Tieder, Hoflar & Fitzgerald, L.P.P., McLean, VA
Robert C. Russ, Jr.
Winstead PC, Austin
Bethany F. Beck
The Gardner Law Firm, P.C., San Antonio
E. Link Beck
Beck & Hall, P.C., El Paso
David P. Benjamin
Benjamin, Vana, Martinez & Biggs, LLP, San Antonio
Matthew D. Beshrara
Strategic Construction, Ltd., Houston
George E. Bowles
Locke Lord LLP, Dallas
Colbie Brazell Campbell
Slates Harwell, LLP, Dallas
Kelly A. Carr
The Brandt Companies, LLC, Carrollton
Gregory M. Cokinos
Cokinos | Young, Houston
Misty H. Gutierrez
Thomas, Feldman & Wilhuisen, L.L.P., Dallas
Andrea A. Hight
Winstead PC, Dallas
Laird E. Lawrence
Lawrence Arbitration, Dallas
Timothy D. Matheny
Peck & Abramson, P.C., Dallas
Tracy Lynn McCrceott
Munsch Hardt Kopf & Harr, P.C., Austin
Jana Mills
American Airlines, Fort Worth
Shae Moore
Vistra Energy, Irving
James F. Nagle
Oles Morrison Rinker & Baker LLP, Seattle
Christie Newkirk
Diamond McCarthy LLP, Dallas
Hon. Xavier Rodriguez
U.S. District Court, San Antonio
Timothy C. Ross
Andrews Myers, P.C., Houston
Matthew C. Ryan
Allensworth & Porter, LLP, Austin
Lee H. Shidlofsky
Shidlofsky Law Firm PLLC, Austin
Douglas P. Skelley
Shidlofsky Law Firm PLLC, Austin
John W. Slates
Slates Harwell, LLP, Dallas
Allison J. Snyder
Porter Hedges LLP, Houston
William W. Sommers
Langley & Banack, Inc., San Antonio
John C. Warren
Cokinos | Young, Houston
Gregory M. Weinstein
Weinstein Radcliffe Pipkin LLP, Dallas
William B. Westcott
Andrews Myers, P.C., Houston
R. Craig Williams
HKS Architects, Inc., Dallas
Misty H. Gutierrez
Thomas, Feldman & Wilhuisen, L.L.P., Dallas

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The La Cantera Resort & Spa • 16641 La Cantera Parkway • San Antonio, TX 78256
A special block of rooms has been reserved at The La Cantera Resort & Spa at the special rate of $235 for single/double. The hotel will release all unused rooms on the CUTOFF DATE OF FEBRUARY 4, 2019. When contacting the hotel you must identify yourself as a participant with the “32nd Annual Construction Law Conference” (Group Code: TIB2719A) in order to obtain the special rate in our room block. Please call the hotel reservation line at (210) 558-6500 to make your reservation. A deposit equal to your first night’s room and tax will be required. We recommend that you make your reservations immediately if you plan to attend this course. Once the room block is exhausted rooms will only be provided on a space and rate-available basis.

REGISTRATION FORM
Mail to: The Construction Law Foundation of Texas
32nd Annual Construction Law Conference
P.O. Box 4646
Austin, TX 78765-4646

Online at: www.constructionlawfoundation.org
Fax Form to:
512/451-2911 (must be accompanied by American Express, Visa or Mastercard Information)
512/451-6960

Please register me for the conference as follows:
☐ Regular Pre-Registration Fee (due by 5 p.m. February 8) $500.00
☐ Pre-Registration for Construction Law Section Members...$450.00 (due by 5 p.m. February 8)
☐ Registration after 5 p.m. February 8 & before 5 p.m. February 22....$ +50.00
☐ Construction Law Section Dues (eligible for the member registration fee)....$ 30.00
☐ # of “Helping A Hero” Raffle Tickets* ($10 each or 3 for $25) $ __________
☐ I will play in the Golf Tournament on Wednesday, February 27, 2019 $155.00
☐ Green Fee (includes range balls and shared cart) .........................................$155.00
☐ Th ursday Luncheon Ticket Discounted at $16 each $ __________
☐ Friday Luncheon Ticket at $26 each $ __________
☐ Pre-Registration for Construction Law Section Members.......................$450.00
☐ Th e Construction Law Foundation of Texas Construction Law Section Dues (eligible for the member registration fee)..... $  30.00
☐ USB Version (includes hard copies of PowerPoint presentations for note-taking)
☐ Printed Version (3-Ring Binder)
☐ Both USB & Printed Version at $50 + .0825 tax..........................................$54.13
☐ Audio CDs & course materials (USB or Printed) at $450 + .0825 tax........487.13
☐ Course materials only (USB or Printed) at $180 + .0825 tax.......................$194.85

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☐ # of “Helping A Hero” Raffle Tickets* ($10 each or 3 for $25) $ __________
☐ RSVP for Texas Women’s CLG Event on Wednesday, February 27, 2019........Free
☐ I cannot attend the conference. Please forward the following:
☐ Audio CDs & course materials (USB or Printed) at $450 + .0825 tax........487.13
☐ Course materials only (USB or Printed) at $180 + .0825 tax.......................$194.85

TOTAL ENCLOED $ __________

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No refunds after 5:00 p.m. Friday, February 22, 2019. Cancellation policy on back cover. (Call for Government and Student Discount Information)

Authorized Signature

SEND THIS FORM TO TEXAS INSTITUTE OF C.L.E.
The Construction Law Foundation of Texas
32nd Annual Construction Law Conference
P.O. Box 4646
Austin, TX 78765-4646
512/451-2911
512/451-6960

Conference Materials: Choose ONE
Registrants may select either the electronic or printed version of the conference materials. Please make your selection below or you may purchase both versions for an additional fee.

☐ USB Version (includes hard copies of PowerPoint presentations for note-taking)
☐ Printed Version (3-Ring Binder)
☐ Both USB & Printed Version at $50 + .0825 tax..........................................$54.13
☐ Audio CDs & course materials (USB or Printed) at $450 + .0825 tax........487.13
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Name ________________________________
Firm ________________________________
Address ________________________________
City ___________________ State _______ Zip ________
Telephone ___________________ Fax ________
Bar Card # __________ E-mail ________________________

Make Check Payable to: The Construction Law Foundation of Texas

Please Charge: ☐ AMERICAN EXPRESS ☐ VISA ☐ MASTERCARD
Card No. ___________________ Exp. Date __________

Name on Card (Please Print) ________________________
Security Code: (3 digit code on MC/Visa, 4 digit code on AmEx): ________________________
Billing Address (including zip): ________________________
Authorized Signature ________________________
Cover Art — “Cypress Creek in April” is an original by Julene Franki, former Director, Texas BarCLE and Executive Director, ALI-ABA. Julene has graciously donated an art piece for the Helping a Hero raffle. You can find more of her work at www.julene.io.

*Helping a Hero — We are proud to partner with Helping a Hero to offer raffle tickets for your chance to win great prizes during the conference. All raffle proceeds benefit Helping a Hero and their mission to empower our severely wounded veterans returning from service by providing specially adapted homes to reintegrate them into their community.

Special Accommodations — If special arrangements are required for a person with a disability to attend this program, please contact us at 512/451-6960.

Section Website — Visit the Construction Law Section’s website at www.constructionlawsection.org for information on how to join the Section and access past conference papers.

Pre-Registration — To ensure sufficient materials are available for all attendees, pre-registration is strongly encouraged. Late registration is subject to additional fees.

Online Registration — Visit www.constructionlawfoundation.org to register online using a Visa, MasterCard or American Express.

Registration by Telephone — You may register by telephone by calling 512/451-6960 or by fax 512/451-2911. Faxed and phone-in registrations require a Visa, MasterCard or American Express number, expiration date, security code and billing address.

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 conference. No refunds will be granted thereafter. Course materials and audio CDs will automatically be mailed to prepaid registrants who did not receive a refund and were not able to attend.

This course has been approved for 14.25 hours credit (including 2.25 hours ethics) which will apply toward MCLE, the College of the State Bar of Texas and the Texas Board of Legal Specialization in the fields of Construction Law, Real Estate Law, Personal Injury Trial Law, Civil Appellate Law and Civil Trial Law. You must attend all sessions to receive full credit. MCLE credit is available in other states. Please let us know your needs when you register.

CPAs may obtain approximately 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 14.00 hours of General credit (all license types) and 2.0 hours ethics. This course is eligible for MCE credit through the Texas Real Estate Commission.

Annual 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 Thornton Tomasetti
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