



Construction Law  
Foundation of Texas

# ANNUAL CLE FOR BOARD CERTIFIED CONSTRUCTION LAWYERS

AUSTIN, TEXAS

IN COOPERATION WITH THE CONSTRUCTION LAW SECTION OF THE STATE BAR OF TEXAS  
AND THE TEXAS INSTITUTE OF CONTINUING LEGAL EDUCATION

**December 12, 2018**

The Hyatt Regency Austin

208 Barton Springs Road, Austin, TX 78704

This program has been approved for 4.00 hours credit which will apply towards MCLE, The College of the State Bar of Texas, and the Texas Board of Legal Specialization in Construction Law, Real Estate Law and Civil Trial Law. You must attend all sessions to obtain full MCLE credit.

## WEDNESDAY, DECEMBER 12, 2018 ➤ PROGRAM AGENDA

- 12:15 p.m. **Late Registration** – Ballroom Foyer, The Hyatt Regency Austin
- 1:00 p.m. **Contractual Comparative Causation Revisited – The Stars Are Aligned**  
The discussion will address the interplay of contract language typical for design professional agreements with recent rulings of the Texas Supreme Court to support a contractual comparative causation defense. The death of *Hunt v. Ellisor and Tanner*.  
*Hollye C. Fisk – Fisk Alexander, P.C., Dallas, TX*
- 2:00 p.m. **Construction in the Oil Patch – Navigating Lien and Indemnity Issues**  
The Texas construction and energy industries are governed by unique statutory regimes, which means it can be difficult to determine which regime controls in the context of energy construction projects. In some cases there is a question as to whether a contractor may claim a mineral lien or a mechanic's liens. In others it is unclear which anti-indemnity statute applies to the work. This presentation will address these issues by focusing on the following: (i) Texas Oilfield Anti-Indemnity Act vs. Texas Construction Anti-Indemnity Act – Which one applies and what are the consequences?; (ii) Texas Property Code Chapter 53 (Mechanic's Liens) vs. Chapter 56 (Mineral Liens) – Which one applies and why does it matter?  
*Sean M. McChristian – Porter Hedges LLP, Houston, TX*
- 3:00 p.m. **Break**
- 3:15 p.m. **Public-Private Partnerships in Texas: The Road Less Traveled**  
Analysis of the best practices and statutory requirements for alternative delivery of non-transportation infrastructure projects under Government Code Section 2267. This session will address the legislative history of the statute and review some of the successes and failures of project procurements and how to avoid pitfalls.  
*Rodney L. Moss – Hunt Companies, Dallas, TX*
- 4:15 p.m. **Rebuilding the ELR: A Request for Information on Texas Construction Law**  
In the last ten years, Texas construction law has enjoyed more attention on economic loss rule (ELR) issues at the Texas Supreme Court than any other area of law. Topic will include a brief history of the several variants of the ELR, including the history and policy behind each. Then, it will investigate two idiosyncratic applications of the ELR to current construction law. First, that suppliers currently enjoy more protections from the ELR than do subcontractor installers under the Texas Supreme Court's Chapman decision. And second, how a footnote in LAN/STV has opened the door for an architectural/engineering "professional malpractice" exception to the ELR that at least one federal court has already taken up. The discussion will close with strategic recommendations about how to best leverage the language from Chapman and LAN/STV to expand or narrow the ELR, depending on who your client is.  
*William W. Allensworth – Allensworth & Porter, LLP, Austin, TX*
- 5:15 p.m. **Adjourn to Reception**



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## REGISTRATION FORM

**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 \$50.00. *Only printed materials will be provided.*

**Cancellations & Refunds** – Refunds, less a \$25 processing fee, will be given to registrants who cancel by 5:00 p.m. Central Wednesday, December 5, 2018. *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.

**Mail to:** The Construction Law Foundation of Texas  
P.O. Box 4646  
Austin, TX 78765

**Email\*:** [info@constructionlawfoundation.org](mailto:info@constructionlawfoundation.org)

**Online\*:** [www.constructionlawfoundation.org](http://www.constructionlawfoundation.org)

**Phone\*:** 512/451-6960

**Fax to\*:** 512/451-2911

*\*Must be accompanied by MasterCard, Visa or AmEx information*

**Please register me for the seminar as follows: (All registrations include printed program materials.)**

- Pre-Registration Fee (*due by 5 p.m. November 30th*)..... \$150.00
- Regular Registration Fee (*after 5 p.m. November 30th and before 5 p.m. December 7*)..... \$175.00
- Late Registration Fee (*after 5:00 pm December 7th and at the door*)..... \$200.00
- Printed Materials Order (*For non-attendees only. Mailed 1-2 weeks after the event.*)..... \$ 64.95

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