



Regional CLE Workshop:

“Yes, You Can Try a Construction Case: Planning and Handling a Construction Trial From *Voir Dire* to Closing Argument”

Navigant

685 3rd Avenue 14th floor

New York, NY

March 4, 2016

Presented by the ABA Section of Litigation Construction Litigation Committee



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#ConstructionLitigation



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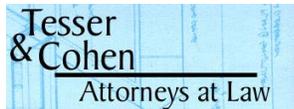


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Program Agenda

Attendees at this day-long program will benefit by learning from experienced courtroom trial lawyers how best to try a construction case. Panelists will employ a variety of teaching tools, including skill demonstrations, lectures, moderated discussions, and interactive question and answer sessions, to impart the skills and techniques that will enable participants to be better trial lawyers. Attendees will also benefit by hearing a keynote address by Ronald Williams the Co-Chair of the Construction Law Group and Litigation Department Administrative Partner of Fox Rothschild, LLP. He will be talking to attendees about trying a case against a design professional.

8:15 am – 8:45 am	Registration and Breakfast Buffet
8:45 am – 9:00 am	Welcome and Opening remarks – Michael R. Gordon, Manatt, Phelps & Philips LLP, East Coast Program Chair
9:00 am – 10:00 am	Panel Discussion No. 1 – Kicking it off; The Initial Stages of Trial This panel will cover a broad range of elements of the early stages of a trial, including jury selection considerations, making maximum use of the <i>voir dire</i> process, employing and working with jury consultants, and constructing and delivering impactful opening statements. Panelists: Dr. Laurie Kuslansky , A2L Consulting, Alexandria, VA; Lewis Askew , Graves, Horton, Askew & Johns, Washington, DC; Stephen Skoller , Skoller Law, South Orange, NJ
10:00 am – 11:00 am	Panel Discussion No. 2 – Taking Control of the Legal Aspects of a Trial; Trial Motions and Jury Instructions A trial can be won or lost based on the instructions that the jury receives and evidence that is or is not allowed to be introduced at trial. That is especially true in construction cases, which can involve complex issues of law. The focus of this panel will be on construction-focused jury instructions, <i>in limine</i> motions, and other trial motions. Panelists: Steven Cohen , Tesser & Cohen, Hackensack, NJ; Patrick Greene , Peckar & Abramson, River Edge, NJ
11:00 am – 11:15 am	Mid-morning break

Program Agenda

Panel Discussion No. 3 – Direction Examination; Telling Your Client’s Story

11:15 am – 12:15 pm

At the end of the day, trials are about telling the jury a compelling story and persuading them, through the telling of that story, that your client should prevail. This panel will engage in a bit of drama, portraying a portion of a direct examination, and will then discuss practical issues that often arise in the direct examination process, including not only examination of lay witnesses but also the effective use of graphics, demonstratives, and animation.

Moderator: **Steven Shapiro**, Holland & Knight, Washington, DC

Panelists: **Alex Brown**, A2L Consulting, Alexandria, VA;

Andrew Case, Manatt, Phelps & Philips, New York, NY;

Kenneth Friedman, Manatt, Phelps & Philips, New York, NY

12:15 pm – 1:45 pm

Buffet Lunch and Keynote Address by **Ronald L. Williams, Esq.**, Co-Chair of the Construction Law Group and Litigation Department Administrative Partner of Fox Rothschild, LLP, on Trying a Case Against a design Professional

1:45 pm – 2:45 pm

Panel Discussion No. 4 – Cross-examination; Kicking Over The Other Guy’s Sand Castle

This is the fun stuff: cross-examination. This panel will include a mock cross-examination and a discussion of the unique do’s and don’ts in cross-examining witnesses in a construction trial. Topics will include planning, tone and pace, effective questioning techniques, and when to shut up and sit down will be covered.

Panelists: **Michael R. Gordon**, Manatt, Phelps & Philips, New York, NY;

Samantha Katze, Manatt, Phelps & Philips, New York, NY;

Ira Schulman, Pepper Hamilton, New York, NY

Program Agenda

Panel Discussion No. 5 – Experts

2:45 pm – 3:45 pm

Proving your case, and disproving your adversary's case, through the effective use and control of expert witnesses. In a construction case, that usually means estimators, engineers, and schedulers, learn who to handle these witnesses from a panel of experienced construction trial lawyers.

Panelists: **Raymond Garcia**, Garcia & Milas, New Haven, CT;
Thomas Welby, Welby Greenblatt, White Plains, NY;
Richard Vivenzio, Navigant, New York, NY

3:45 pm – 4:00 pm

Afternoon break

Panel Discussion No. 6 – Wrapping it up; Closing Arguments and Effective Use of Jury Instructions in a Construction Case

4:00 pm – 5:00 pm

This panel will bring it all together, providing guidance on how best to convey the evidence adduced in a construction trial in the most persuasive way and how to integrate the instructions the jury will hear from the judge into closing argument.

Panelists: **Michael Chartan**, Duane Morris, New York, NY;
Theodore Hecht, Schnader Harrison Degal & Lewis LLP, New York, NY

5:00 pm – 5:15 pm

Closing remarks – Program chair, **Michael R. Gordon**, **Manatt, Phelps & Philips LLP**

5:15 pm – 7:00 pm

Networking and Cocktail Reception

Organizers and Chairs

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ABA Section of Litigation, Construction Litigation Committee
PROGRAM ORGANIZER

Michael Gordon
Manatt, Phelps & Philips
7 Times Square,
New York, NY 10036
(212) 790.4603
MGordon@manatt.com

General Information

Registration:

To register online, visit:

http://shop.americanbar.org/ebus/ABAEventsCalendar/EventDetails.aspx?productId=201868578&sc_cid=LT-CLC15-G1

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Please register by February 29, 2016 to reserve your spot.

Requests for refunds must be made in writing and received no later than February 29, 2015 in the ABA Section of Litigation office. Please email your request to Kristen McCann. There will be a \$10 administrative fee deducted from the refund. Cancellations received after February 29, 2016 will not be refunded; however, the Section will gladly accept substitutions for those unable to attend.

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Tuition Assistance:

A limited number of scholarships to defray registration fees may be available for government employees, public interest lawyers employed with nonprofits, academics, and law students, as well as unemployed attorneys. For more information, please contact Kristen McCann at 312-988-5662.

Attendance List:

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Registration

"Yes, You Can Try a Construction Case: Planning and Handling a Construction Trial
From Voir Dire to Closing Arguments"
Friday, March 4th, 2016
New York, NY

Name		Member ID		
Affiliation				
Address	Apt. #	City	State	Zip Code
Phone	Email			

The information submitted on this registration form will be used only to create an attendance list for the **"Yes, You Can Try a Construction Case: Planning and Handling a Construction Trial From Voir Dire to Closing Argument"** Regional CLE Workshop.

A limited amount of scholarships are available for this program. For more information, please contact: Kristen McCann at 312-988-5662.

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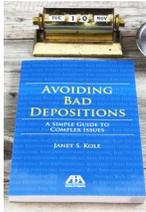
\$175.00 Section of Litigation members
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- I am unable to attend the meeting, but please send the course materials to the above address, at a cost of \$35.00, a check for which is enclosed.

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New! Section of Litigation Titles Related to Programming Available for Purchase

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Avoiding Bad Depositions: A Simple Guide to Complex Issues

By Janet S. Kole

Avoid mistakes—and malpractice claims—when preparing for depositions by following the advice in this short guide. To help navigate the minefield of problems inherent in taking and defending depositions, topics covered include an explanation of a deposition and its purpose, how to defend and take depositions, and how to skillfully deal with difficult opponents, problem witnesses, and experts.



Civil RICO: A Definitive Guide, Fourth Edition

By Gregory P. Joseph

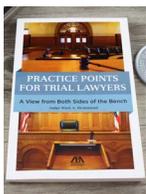
This updated edition provides a concise, yet thorough analysis of the major legal issues arising in civil actions litigated under the Racketeer Influenced and Corrupt Organizations Act (RICO). You will be guided through the complex statute and morass of related case law to help you quickly locate the issues pertinent to your case.



Lawyer, Activist, Judge: Fighting for Civil and Voting Rights in Mississippi and Illinois

By Martha A. Mills

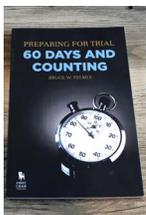
Lawyer, Activist, Judge: Fighting for Civil and Voting Rights in Mississippi and Illinois is an inside look at one woman's struggle for civil and voting rights in Mississippi and Illinois in the 1960s and 1970s. In this engaging description of a life spent breaking down barriers, Martha Mills describes living and working in an ardent segregationist culture fraught with danger, and filled with both heroes and villains.



Practice Points for Trial Lawyers: A View from Both Sides of the Bench

By Mark Allen Drummond

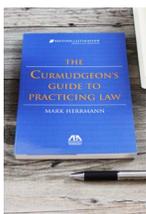
Designed for aspiring and active trial lawyers, this collection of short works offers Judge Drummond's perspective and practice points on trial preparation, jury selection, trial presentation, witness examination, and professionalism, as well as the shared wisdom of leading trial lawyers across the country.



Preparing for Trial: 60 Days and Counting

By Bruce W. Felmlly

In these days of the "vanishing trial," when there are fewer opportunities to learn from the masters, this book is an invaluable guide for trial lawyers needing to focus, prioritize, and prepare for that morning when they alone will say, "Ready, Your Honor." Preparing for Trial demonstrates how to systematize your approach to the final weeks before trial to assure there are no loose ends in your case, and to limit the stress of a very demanding time.



The Curmudgeon's Guide to Practicing Law

By Mark Edward Herrmann

Find out what drives law partners crazy, what will impress them, and the ten mistakes you should avoid. Concise, humorous and full of valuable (but curmudgeonly) insight, this is a must-read for every lawyer and law student.

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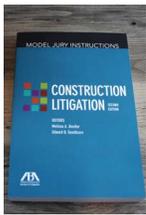
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Building the Construction Case: A Blueprint for Litigators

By George F. Burns and Michael Bosse

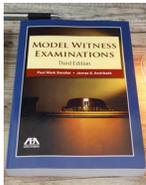
This book is a blueprint for the construction litigator from the first client meeting to final case disposition. Examples of cases illustrative of fundamental patterns that all counsel must handle in construction litigation are analyzed and of use to both new and seasoned attorneys in this field.



Model Jury Instructions: Construction Litigation, Second Edition

By Edward B. Gentilcore, Melissa A. Beutler, Editors

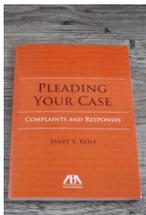
The instructions in this new edition have been prepared to allow construction litigators to present proposed instructions to the judge that either track verbatim these model instructions or are based upon the instructions. These models accurately and impartially present the elements and critical definitions of construction law in language that is understandable and familiar to the average juror.



Model Witness Examinations, Third Edition

By James Kenway Archibald and Paul M. Sandler

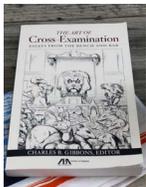
The Rules of Evidence are one thing. The mechanics of correctly eliciting facts—in the heat of trial—can be quite another. In this concise handbook, 70 model examinations show you how to deal effectively with practical evidentiary issues that every trial lawyer faces. The models cover a broad variety of basic issues that must be dealt with in direct, cross, and redirect, and the use of depositions and interrogatories.



Pleading Your Case

By Janet S. Kole

Complaints and answers are called “pleadings” for a reason: they are the initial explanation that you craft as a lawyer to explain your client’s position. But where do you begin? Pleading Your Case is your first step towards crafting a complaint or response that effectively tells your client’s story.



The Art of Cross-Examination: Essays from the Bench and Bar

By Charles B. Gibbons, Editor

Decades of articles on cross-examination from Litigation magazine comprise this group of essays, which collectively cover all aspects of the art. Read together, these pieces resemble vigorous conversation on the art of cross-examination amongst skilled advocates, judges, and law professors, sometimes agreeing and occasionally disagreeing and contradicting each other, giving the reader a well-rounded understanding of the subject.