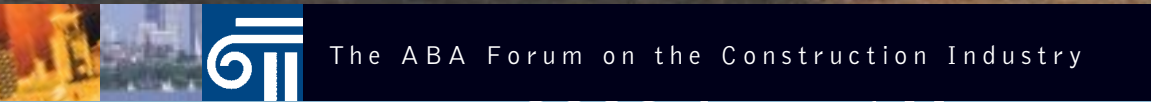


Revolution & Evolution

in Boston: Changes & Innovations in
the Construction Industry



2003 Annual Meeting

May 8-9, 2003 • The Sheraton Hotel Back Bay • Boston, MA

Lawyers Serving the Construction Industry Through Education and Leadership

In Cooperation with the Construction Litigation Committee
of the ABA Section of Litigation





Dear Colleagues

Each spring, the Forum brings together a distinguished array of speakers and a schedule of meetings and receptions where members of its 12 Divisions share ideas and have a chance to meet other construction industry professionals from across the country. Each year, we work hard to improve the quality of program content and the technical media by which it is presented. We are confident that our May 2003 Annual Meeting will meet the high expectations of our members.

Our location is the great city of Boston. We will meet in the historic Back Bay area, within a few blocks of Copley Square, the Museum of Fine Arts, and the old brick shops of Newbury Street. The Old North Church, Quincy Market, Boston Common, Harvard Square and Fenway Park are among the many other venues waiting nearby for you to explore.

Our program will consist of five plenary sessions and eight workshops, offering a wide spectrum of information on important changes and innovations affecting lawyers and consultants in the construction industry. Topics have been selected to provide valuable training from the most junior practitioner to the most senior. Electronic discovery, liability for mold, project cost accounting, project labor agreements, smart building technology, dispute review boards, form contract comparisons, force majeure insurance, scheduling (introductory and advanced), lender assignments, mandatory federal provisions and ethical conflict resolution will all be discussed. In addition, the speaker for the Thursday luncheon will be Michael Lewis, the Director of the Central Artery Tunnel Project in Boston (a/k/a "The Big Dig"). Mr. Lewis will be providing us with a multimedia insider's tour of this \$14 billion project.

Besides the excellent programs being offered, you will have the opportunity to catch up with old friends, meet new ones, and become more involved in Forum activities. Whether it's taking part in one of the 12 Division breakfasts or committee meetings, or just attending the Forum's annual business meeting at the Friday luncheon, you can get as involved as you choose in the Forum's educational and networking activities. Special orientation will be provided to first time attendees and new Forum members.

The Forum's annual reception on Thursday night should be a particularly splendid event. We have reserved several of the main galleries in Boston's prestigious Museum of Fine Arts where you can enjoy great food, drink and company while surrounded by classic art. For a preview of the collection, you can visit www.mfa.org online.

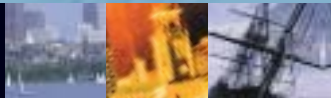
For an exciting, informative and enjoyable program, please join us for the Revolution & Evolution in Boston.

ANNE E. GORHAM
Program Co-Chair
Stites & Harbison
Lexington, KY

GEORGE J. MEYER
Program Co-Chair
Carlton Fields, P.A.
Tampa, FL

DOUGLAS S. OLES
Governing Committee Liaison
Oles, Morrison, Rinker & Baker, L.L.P.
Seattle, WA

Town 2008



Forum on the Construction Industry Leadership

Governing Committee

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Schottenstein, Zox & Dunn, L.P.A. Columbus, OH

FRED D. WILSHUSEN
Thomas, Feldman & Wilshusen, L.L.P. Dallas, TX

Staff Director

KELLY RODENBERG
American Bar Association Chicago, IL

Meetings Manager

ALANNA SULLIVAN
American Bar Association Chicago, IL

Social Event

Thursday **May 8**

Spouse Tour

Complete Tour of Boston: 350 Years in a Day

With fascinating history, beautiful architecture and charming neighborhoods, it's no wonder Boston welcomes more than 10 million visitors annually. The ABA invites you to spend a day getting to know one of America's oldest architectural and cultural gems with a guided tour through many of Boston's most celebrated sites, including:

- Beacon Hill — Boston's first and most prestigious address.
- Back Bay — The new face of Boston's waterfront, built over one hundred years ago.
- Fenway Park — A historic ballpark, home to Babe Ruth and other baseball greats.
- South End — An area boasting the United States' largest Victorian neighborhood.
- North End — Boston's famous Italian neighborhood, home to Old North Church, where lanterns were hung to signal the beginning of Paul Revere's "Midnight Ride".
- USS Constitution, Freedom Trail, Massachusetts State House, Quincy Market and more!

Venture through historic neighborhoods, famous sites and along Boston's waterfront. The tour is 4 hours in duration and the \$30 per person includes transportation, guide service, admissions, taxes and gratuities.





Wednesday

May 7

3:00 - 7:00 p.m.

Registration/Information

6:00 - 7:00 p.m.

Young Lawyers Reception

Thursday

May 8

7:15 a.m. - 5:00 p.m.

Registration/Exhibition Open

7:30 - 8:30 a.m.

Continental Breakfast

(available to paid registrants)

Breakfast Meetings

Division 11 Corporate Counsel

(division members only)

Construction Litigation
Committee/New Member
Breakfast

8:30 - 8:35 a.m.

Welcome from the Chair

8:35 - 8:45 a.m.

Opening Remarks and
Announcements

8:45 - 10:15 a.m.

Plenary 1

Discovery of Electronic
Information in Construction

This panel will explore the intricacies of electronic discovery in construction disputes, with a focus on identifying electronically stored records, where to look, how to request production, and how to protect such documents.

JAMES BUTLER

Smith, Currie & Hancock L.L.P.
Atlanta, GA

HON. WILLIAM G. YOUNG

Boston, MA

PHILLIP HOMES, P.E.

InteCap, Inc.
Boston, MA

GENE E.K. PRATTER

Duane Morris, L.L.P.
Philadelphia, PA

10:15 - 10:45 a.m.

Plenary Construction Cue

Mold & Mildew: Evolving
Liability and Insurance

Do mold or poor air quality constitute design and/or construction defects? If so, will the parties' insurance cover costs of remediation? This segment will discuss evolving standards, causation issues and insurance coverage and exclusions.

LAURENCE KIRSCH

Shea & Gardner
Washington, DC

10:45 - 11:00 a.m.

Break

11:00 - 12:00 noon

Workshop A

Counting the Beans:
Analyzing Project Costs

Tracking costs is essential in project management and in supporting a construction claim. This program will offer guidance in tracking, segregating, testing and analyzing both direct and indirect project costs.

RICHARD F. SMITH

Smith, Pachter, McWhorter & Allen P.L.C.
Vienna, VA

PETER BADALA

Navigant Consulting, Inc.
San Francisco, CA

Workshop B

How Effective Are Project
Labor Agreements?

Our speakers will offer two contrasting views on the merits and enforceability of PLA's, including an update on test cases in federal and state courts.

LAWRENCE H. KAY

Sacramento, CA

CHRISTOPHER C. WHITNEY

Little, Bulman & Whitney
Providence, RI

12:00 - 12:15 p.m.

Transition to Lunch

12:15 - 1:45 p.m.

Lunch and Luncheon Speaker

THE BIG DIG – A Multimedia
Insider's Tour of Boston's
Central Artery Tunnel Project

MICHAEL LEWIS

Project Director
Boston, MA

1:45 - 2:00 p.m.

Transition to Afternoon
Workshops

2:00 - 3:15 p.m.

Workshop C

The Revolution in "Smart
Building" Technology

Stocks in tech companies may be down, but the influence of their innovations is here to stay. This program will review how new technologies have revolutionized design, construction materials, and building systems. It will also provide an introduction to emerging legal issues in so-called "smart buildings".

JEFFREY A. MOERDLER

Mintz Levin Cohn Ferris Glovsky & Popeo P.C.
New York, NY

JAMES M. MUNDY

Siemens Building Technologies
Wantagh, NY

Workshop D

The Evolution in Dispute
Resolution

The "Big Dig" in Boston was fertile ground for development and use of innovative dispute resolution procedures. This program will discuss some of the lessons learned (including dispute review boards) and offer contrasts with recent practice in the United Kingdom and elsewhere.

MICHAEL BLACK QC

Chambers of Dermot O'Brien QC
London, England

CHUCK SCHAUB

Hinckley, Allen & Snyder
Boston, MA

3:15 - 3:30 p.m.

Break

3:30 - 5:00 p.m.

Plenary 2

Standard Contract Forms:
Do They Meet Client Needs
and Expectations?

Savvy owners, designers and contractors—and their counsel—must weigh and allocate the various contract rights, risks and responsibilities when selecting among the myriad of standard form documents published by industry professional and trade associations. The speakers will survey the current offerings of major standard form contract documents, highlighting their significant differences and biases and generally putting them to the test.

MARK J. HELEY

Meagher & Geer P.L.L.P.
Minneapolis, MN

PENNY PITTMAN COBEY

Los Angeles, CA

MARK MCCALLUM

Associated General Contractors
Bethesda, MD

5:00 - 6:00 p.m.

Break Before Annual Reception

6:00 - 8:00 p.m.

Annual Reception at
Museum of Fine Arts

Program Schedule

Friday

May 9

7:15 a.m. - 5:00 p.m.

Registration/Exhibition Open

7:30 - 9:00 a.m.

Breakfast/Business Meetings Divisions 1-10 & 12

(please specify interest on registration form)

9:00 - 9:15 a.m.

Transition to Morning Session

9:15 - 9:20 a.m.

Announcements

9:20 - 10:50 a.m.

Plenary 3

Force Majeure in the 21st Century

Since the September 2001 terrorist attacks, "force majeure" clauses and related insurance coverage have been sorely tested. This program will discuss the common law scope of force majeure relief and the evolving limits on available insurance.

BOB BURCHETTE

*Johnson, Allison & Hord
Charlotte, NC*

FRED MUSE

*Marsh USA, Inc.
Atlanta, GA*

CARY WRIGHT

*Carlton Fields
Tampa, FL*

10:50 - 11:05 a.m.

Break

11:05 a.m. - 12:05 p.m.

Workshop E

Scheduling 101: Preparing and Interpreting Complex Construction Schedules

This program will help practitioners understand how various forms of construction schedules are prepared and updated, discussing the most common software and providing guidance for interpretation and cross-examination of schedules.

KEITH BERGERON

*Deutsch, Kerrigan
New Orleans, LA*

ROY WILSON

*Wilson Management Consultants
Glen Head, NY*

Workshop F

Negotiating a Lender's Consent & Assignment Agreement

Over the past several years, lenders increasingly are requiring broad consent and assignment agreements from designers and contractors. This program provides an introduction to such agreements, offering guidance on what is negotiable and what isn't.

JEFF FORD

*Ford, White & Nassen
Dallas, TX*

ALAN RITTERBAND

*Ballard Spahr
Philadelphia, PA*

12:05 - 12:15 p.m.

Transition to Lunch

12:15 - 1:45 p.m.

Lunch/Forum Business Meeting/Election of Officers/Presentation of Awards

1:45 - 2:00 p.m.

Transition to Afternoon Workshops

2:00 - 3:15 p.m.

Workshop G

Scheduling 201: Tactical Use of Schedules

Building on the substance of Workshop E, this program offers advanced training on how schedules can be used most effectively in project management and claim support. Topics will include float manipulation, planned early completion, incorporation of subcontract schedules, effects of owner approval, use of updates, and proof of delay impacts.

BARRY BRAMBLE

*Knowles, USA
Cherry Hill, NJ*

ALAN E. HARRIS

*Farella Braun & Martel L.L.P.
San Francisco*

Workshop H

Federal Statutes and Regulations in Construction

This program will describe the content and application of federal statutes and regulations with special impact on construction contracts. Topics will include the Brooks Act, Contract Disputes Act, Truth in Negotiations Act, Buy American Act, Davis Bacon Act, the Miller Act, the Prompt Payment Act, and others.

KATHLEEN OLDEN BARNES

*Watt, Tieder, Hoffar &
Fitzgerald, L.L.P.
McLean, VA*

LARRY HARRIS

*Piper Rudnick L.L.P.
Washington, D.C.*

CHRISTINE McANNEY

*Venable, Baetjer and Howard, L.L.P.
Vienna, VA*

3:15 - 3:30 p.m.

Break

3:30 - 5:00 p.m.

Plenary 4

Ethics: Conflicts in Representing Construction Clients

This interactive program will use hypotheticals and audience input to explore conflicts that commonly arise in representing construction industry clients.

THOMAS E. SPAHN

*McGuire Woods L.L.P.
McLean, VA*

5:00 p.m.

Adjourn

5:30 - 7:00 p.m.

Reception Honoring Women in Construction

Saturday

May 10

DRB Foundation Dispute Resolution Board Seminar

Dispute Review Boards ("DRBs") are being used increasingly to resolve construction industry disputes. Lawyers should understand the process and their role in it. Many providers of neutrals, including the AAA, require DRB members to complete this kind of Workshop sponsored by the DRB Foundation. The day-long presentation will include lectures, demonstrations, exercises, and suggestions to improve the process. It will also provide information about becoming a DRB member and related ethical issues. Separate registration is required. Registration is \$345 for DRB Foundation members and \$395 for non-members. To sign up, please contact the DRB Foundation directly at 6100 Southcenter Blvd., Suite 115, Seattle WA 98188-2441, (888) 523-5208.

Conference Information

Advance Registration

Please complete and return the attached registration form with your payment by APRIL 11, 2003. If you wish to have your name appear on the pre-registration list distributed at the program, we must receive your registration no later than this date.

Conference registrations will only be accepted when accompanied by a check, Visa, American Express, or MasterCard information. Credit card registrations may be FAXED to our registration company, T-REX directly at (630) 262-1520 or you may register online at www.abanet.org/forums/construction/home.html. Registrations cannot be held without payment.

On Site Registration

On site registration is available for those persons who missed the registration deadline. If you plan to register at the door, you must call (312) 988-5579 at least 72 hours before the conference to confirm that space is still available. Failure to call in advance may result in not being admitted to a sold out program. On site registration will only be accepted when accompanied by a check, money order, American Express, Visa or MasterCard information. Registrations will not be accepted without payment.

Registration Confirmation

If you do not receive a written confirmation by APRIL 11, 2003, please call T-Rex directly at (630) 262-1599 to verify that your registration form and check were received. Failure to call in advance of the program may result in not being admitted.

Tuition

Tuition includes admission to the program, coffee breaks, continental breakfast, lunches, one ticket to Annual Reception at the Museum of Fine Arts, and one set of program course materials. Lunch is limited to registrants, faculty and members of the press.

Cancellation Policy

No refunds will be granted for cancellations received after APRIL 11, 2003. To receive a refund (less a \$50 administrative fee), cancellations must be made IN WRITING and RECEIVED on or before APRIL 11, 2003. Registrants who are unable to attend may send a substitute or receive course materials in lieu of a refund. The ABA reserves the right to cancel any programs, and assumes no responsibility for personal expenses.

Hotel

The conference will be held at The Sheraton Boston Hotel, 39 Dalton Street, Boston, MA 02199. Reservations can be made by calling the Sheraton Reservation Office at (800) 325-3535. To insure availability please make your reservation by MARCH 28, 2003. The Hotel Reservation Office will assign rooms on a space available basis. Hotel check-in time is 3:00 p.m. and the check-out time is 12:00 p.m. Reservations must be cancelled 48 hours prior to the scheduled day of arrival to avoid a one night's cancellation charge.

Conference Rates: \$219 single/double.

Air Transportation

You can fly to ABA meetings with favorable airfares on the following carriers by purchasing your ticket under the ABA Discount Code and using one of two options: Percentage Discounts or Zone Fares. Once your airfare has been determined, the percentage discount can then be applied to produce additional savings to you. By asking the agent to compare the

percentage-discounted fare with the carrier's Zone Fares, even greater savings may be achieved. Zone Fares are more flexible and user-friendly than non-refundable, restricted airfares. While Zone Fare rules and restrictions vary with each airline, most only require a 7-day advance purchase; do not require a Saturday night stay; are changeable and refundable and require only a 2-day minimum stay.

The ABA Discounted Meeting Airfares are available on the following airlines through your travel agent, directly from the airlines or from the ABA travel agency, Tower Travel at (800) 921-9190.

American Airlines	Discount Code # 15794
Delta Air Lines	Discount Code # 189408 A
US Airways	Discount Code # 36632473

CLE Credit

Accreditation has been requested for the conference from every state with mandatory continuing legal education (MCLE) requirements for its lawyers. Please be aware that each state has its own rules and regulations, including its definition of "CLE". Check your state agency for confirmation of this program's approval. Attorneys seeking to obtain MCLE credit in Louisiana and Pennsylvania are required to pay state accreditation fees directly to that state. Certificates of attendance will be available at the conclusion of this conference. For questions pertaining to the number of credit hours granted by each state, call (312) 988-6217 two or three weeks before the conference.

Membership

The membership tuition rate will be available to registrants who join the Forum on or before the first day of the program. For your convenience, you may apply for Forum membership using this Program Registration Form. Membership dues are not deductible as charitable contributions for federal income tax purposes. However, such dues may be deductible as a business expense.

Tax Deduction for Educational Expenses

In the United States, an income tax deduction may be allowed for educational expenses undertaken to maintain or improve professional skills. This includes registration fees, travel, meals, and lodging expenses. (see Treas. Reg. 1.162-5) (Coughlin vs. Commissioner 203 F 2d 307).

Course Materials

All registrants will receive the course materials in paper and CD formats. If you are not planning to attend the program and wish to order the course materials, check the appropriate box on the registration form and send it with the appropriate fees. Allow approximately 3-4 weeks after the program for delivery.

Services for Persons with Disabilities

If special arrangements are required for an individual with a disability to attend this program, please submit your request in writing to Kate Flanagan, Forum on the Construction Industry, American Bar Association, 750 N. Lake Shore Drive, MS 11.2, Chicago, IL 60611, or Fax to (312) 988-5677, no later than APRIL 11, 2003.

Forum on the Construction Industry Website

www.abanet.org/forums/construction/home.html

Cell Phone Policy

As a courtesy to speakers and attendees, we request that all cell phones and pagers be turned off in the meeting rooms.

Program Registration Form

Housing Deadline: March 28, 2003

Registration Deadline: April 11, 2003

Please print or type

1. Registrant Information

This form is available online at: www.abanet.org/forums/construction/home.html

Last Name _____ First Name _____ M.I. _____

(Name as you wish it to appear on attendee list & name badge) _____ ABA Member ID# _____

Firm/Company/Agency _____

Address _____

City _____ State _____ Zip _____

(Area Code) Business Phone Number _____ (Area Code) Business Fax Number _____

E-mail Address _____ Spouse or Guest (Print as you wish names to appear on badge) _____

If you are an attorney licensed in the state of New York, please check here.

2. Registration Fees

General Attendees \$675
 Forum Members \$595
 Construction Litigation Members \$595
 Government/Academic/YLD \$425
 Law Students \$345
 New Member, First Time Attendees: \$295
 Forum 20 Year Member: \$445

Subtotal \$ _____

Please check one if you are:

Member of BOTH Forum and Construction Litigation Committee
 Past Forum Chair
 Past Governing Committee Member
 I am a New Member and would like a mentor to contact me

3. Social Event Tickets

Event	Fee	Quantity	Total
Spouse/Adult Annual Reception	\$50	_____	\$ _____
Child Annual Reception (under 12)	\$30	_____	\$ _____
Thursday's Spouse Tour	\$30	_____	\$ _____
Reception Honoring Women in Construction	N/A	_____	\$ _____
Subtotal			\$ _____

4. Membership Applications

\$ _____ Please enroll me as a member of the Forum on the Construction Industry. Membership fee (\$40 Regular/\$5 Law Student). I understand I must be a member of the ABA and at least one Section. I belong to the following Section(s): _____

5. Materials Only

I will not be attending the seminar and wish to order program materials at \$150

Subtotal \$ _____

6. Total Payment

Add subtotals 2,3,4 or 5:

Total \$ _____

7. Payment Information

Check (made payable to ABA)
 MasterCard Season Pass Voucher
 American Express VISA

Credit Card Number _____ Expiration Date _____

Signature _____

Educational Registration

Thursday, May 8, 2003

7:30 a.m.-8:30 a.m. Breakfast

Div. 11 – Corporate Counsel (Division Members Only)
 Construction Litigation Committee
 First timers

11:00 a.m.- 12:00 p.m. (Make one choice)

Workshop A Workshop B

2:00 p.m.-3:15 p.m. (Make one choice)

Workshop C Workshop D

Friday, May 9, 2003

7:30 a.m. -9:00 a.m. –

Division Breakfast Meetings (Make one choice)

Div. 1 Dispute Avoidance & Resolution
 Div. 2 Contract Design
 Div. 3 Design
 Div. 4 Construction Management, Design/Build & Related Concepts
 Div. 5 Contract Negotiations, Performance & Administration
 Div. 6 Employment Law & Labor Relations
 Div. 7 Bonds, Liens & Insurance
 Div. 8 International Contracting
 Div. 9 Specialty Trade Contractors and Suppliers
 Div. 10 Legislation & Environment
 Div. 12 Owners and Lenders

11:05 a.m.- 12:05 p.m. (Make one choice)

Workshop E Workshop F

2:00 p.m.-3:15 p.m. (Make one choice)

Workshop G Workshop H

3 Ways to Register

Online: www.abanet.org/forums/construction/home.html

Mail: Technical Registration Experts (T-Rex)
Forum on the Construction Industry
13 South 2nd Street, Suite 2
Geneva, IL 60134

Fax: Fax: (630) 262-1520
T-Rex phone: (877) 309-1565 or
(630) 262-1599



American Bar Association
Forum On The Construction Industry, MS 11.2
750 North Lake Shore Drive
Chicago, Illinois 60611

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American Bar
Association

