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ABA Forum on the Construction Industry
and TIPS Fidelity and Surety Committee
Jointly Present

The 2007 AIA Documents: New Forms, New Issues, New Strategies



new york, ny



January 31, 2008

New York, NY

Sheraton New York Hotel & Towers



dear colleagues:

The Joint Mid-Winter 2008 meeting of the Forum and FSLC blends a bit of the old and the new with a return to vibrant New York City, but at a new hotel – the Sheraton New York Hotel & Towers, located between Central Park and Times Square, in the center of Manhattan’s midtown business and entertainment district. The Sheraton Towers, located on 7th Avenue between 52nd and 53rd Streets, is just steps away from the excitement of Broadway theaters, the beauty of the Museum of Modern Art, the prestige of Carnegie Hall and the world-class shopping of Fifth Avenue. Our program is literally a once-in-a-decade event. This fall, the American Institute of Architects (AIA) will publish its new suite of design and construction documents. We will focus on two major agreements: (1) The A201 General Conditions Document, and (2) the B101 Owner/Architect Agreement.

The AIA documents in many respects reflect consensus with respect to a number of industry practices. A detailed working knowledge of these agreements is critical to any construction practice, whether you litigate or draft construction contracts. There have been a number of significant changes to these documents. The A201 has a new claims and dispute process, including the introduction of a new concept known as the “Initial Decision Maker.” The Owner/Architect Agreement is a new agreement which reflects a reworking of the prior B141 and B151 Documents. You will learn not only what is new, but also its importance given what has not changed. We have assembled experts from around the country to bring these documents to life. Not only have we gathered practitioners that have extensive working knowledge of these agreements, but also a number of individuals involved directly in the drafting process. You will get an inside view of how these documents were crafted.

Our first session tackles the General Conditions. Our moderator was outside counsel to the AIA Documents Committee. The panel will address the important changes to the claims and dispute provisions, as well as a number of other important revisions to this critical document. Session two focuses upon the new Owner/Architect Agreement. Once again, we have a speaker who was directly involved in creating this new document. Our third session is divided into two parts. Part I addresses the coming revolution in digital practice. Technology is changing the construction industry and we, as lawyers, must understand the consequences. Our speaker is very knowledgeable on this topic and will walk us through a number of the key issues we need to understand in order to adjust to the changing landscape. Part II provides a lessons-learned from ten years of experience working with the 1997 A201 General Conditions. The speakers will cover such important topics as the mutual waiver of consequential damages, contractor’s review obligations, and design delegation issues. Session four returns to the Owner/Architect Agreement with a vigorous debate on the hot button issues often arising in owner and designer negotiations. Once again, we will hear from someone directly involved in the drafting process. Finally, the last session provides a give-and-take on the key provisions of the A201 General Conditions Document, including the thinking behind the substantial revisions to the claim and dispute provisions. The current chair of the AIA’s Document Committee will provide his insights as a part of the panel.

If getting a bird’s eye view of these critical documents were not enough, the vibrancy and cultural allure of New York as the setting to learn about these important documents is an experience not to miss.

See you in the Big Apple!

Steven B. Lesser
Program Co-Chair
Becker & Poliakoff
Ft. Lauderdale, FL

Patrick J. O’Connor, Jr.
Program Co-Chair, TIPS FSLC
Faegre & Benson LLP
Minneapolis, MN

Andrew D. Ness
Governing Committee Liaison
Thelen Reid Brown Raysman & Steiner LLP
Washington, DC

ABA Forum on the CONSTRUCTION INDUSTRY 2007

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program schedule

THE 2007 AIA DOCUMENTS: NEW FORMS, NEW ISSUES, NEW STRATEGIES

wednesday

10:00 a.m. – 6:00 p.m.

ADVANCED REGISTRATION

thursday

7:30 a.m. – 5:00 p.m.

REGISTRATION/
EXPOSITION OPEN

7:30 a.m. – 8:30 a.m.

CONTINENTAL BREAKFAST

7:00 a.m. - 8:00 a.m.

JOINT BREAKFAST

*Presented by the FSLC UPBEAT
Subcommittee and the Forum on the
Construction Industry's Diversity
Committee*

All attendees are welcome to attend, but please sign-up on the registration form so we know how many to expect!

FEATURED SPEAKER

Lenore Janis

President Of Professional Women in Construction

8:15 a.m. – 8:35 a.m.

WELCOME/INTRODUCTIONS

Mike Tarullo, Forum Chair

Tracy Haley, FSLC Chair

Steven B. Lesser, Program Co-Chair

Patrick J. O'Connor, Jr., Program Co-Chair

8:35 a.m. – 10:30 a.m.

PLENARY SESSION I —

What & Why: An Overview

As the most widely used AIA document, the 2007 A201 General Conditions raise new issues and challenges. This segment will address what may be the most controversial and challenging of the revisions, including:

- The “Initial Decision Maker” Concept
- “Checkbox” Dispute Resolution Methods
- Consolidation and Joinder of Parties and Disputes
- 10 year Contractual Repose Period
- Owner “Self-Help” Remedies

MODERATOR:

Howard G. Goldberg

Goldberg, Pike & Besche, PC, Baltimore, MD

SPEAKERS:

James O'Connor

Maslon Law Firm, Minneapolis, MN

Linda A. Klein

Baker Donelson, Atlanta, GA

Richard J. Tyler

Jones Walker, New Orleans, LA

10:30 a.m. – 10:45 a.m.

COFFEE BREAK

10:45 a.m. – 11:45 p.m.

PLENARY SESSION 2 —

*Starting Over — The Newly
Created B101 Owner/Architect
Agreement.*

Critical changes have been introduced by the replacement of the two-part B-141 with the new B-101 that pose new traps for unwary architects attempting to navigate their way through increased powers and potentially greater liability exposure. Our panelists will guide us through B-101, highlighting:

- Architect's Standard of Care
- Instruments of Service
- Environmentally Responsible Design Requirements
- Veto Rights of the Architect Over the A201 terms and conditions

SPEAKERS:

James C. Jankowski FAIA

OWP/P, Chicago, IL

Mark C. Friedlander

Schiff Hardin, LLP, Chicago, IL

11:45 a.m. – 1:15 p.m.

LUNCHEON

LUNCHEON SPEAKER:

Maryanne Gilmartin

Forest City Ratner Companies, Brooklyn, NY

1:30 p.m. – 2:45 p.m.

PLENARY SESSION 3 —
The Future & The Past
Part I

The New AIA Digital Rights Documents— Dealing with Drawings in the Electronic Age

Learn the pitfalls associated with the digital transfer of CAD documents and understand how transfer impacts intellectual property rights. This session will highlight:

- Protocols for creating, revising and transmitting digital information
- Allocating risks associated with digital data
- Ownership and licensing of digital data

SPEAKER:

Christopher L. Noble
Noble & Wickersham LLP, Cambridge, MA

Part II

Lessons Learned: How the 1997 Revisions to A201 Have Fared After 10 Years. Litigation Experience and Negotiating Tips.

The 2007 edition retains many provisions that have proven problematic to construction practitioners. This “look back” session will examine how these provisions have fared in court, and provide practical suggestions for negotiation.

- Mutual Waiver of Consequential Damages
- Delegation/Division of Design Duties
- Contractor’s Review of Contract Documents and Field Conditions
- Termination for Owner’s Convenience
- Post-Completion Correction Obligations

SPEAKERS:

Mark Heley
Coleman Hull & Van Vliet PLLP,
Minneapolis, MN

Shannon J. Briglia
Moore & Lee LLP, McLean, VA

2:45 p.m.-3:00 p.m.

BREAK

3:00 p.m. – 4:00 p.m.

PLENARY SESSION 4 —
Point /Counterpoint on Key B101 Provisions: The Hot Button Issues and How They Have Changed

A key AIA participant in drafting B101 will debate the wisdom of significant new provisions with experienced counsel for the owner and architect. Learn the rationale for these new provisions and what provisions still cause heartburn for each party.

SPEAKERS:

R. Harper Heckman (Moderator)
Nexsen Pruet Adams & Kleemeier, LLC
Greensboro, NC

L. Wearen Hughes
Bass Berry & Sims, Nashville, TN

Keith J. Bergeron
Deutsch Kerrigan & Stiles LLP, New Orleans, LA

Suzanne Harness
American Institute of Architects,
Washington, DC

4:00 p.m. – 5:00 p.m.

PLENARY SESSION 5 —
Point /Counterpoint on Key A201 Provisions: The Hot Button Issues and How They Have Changed

An AIA leader who helped draft the new A201 will debate the wisdom of key provisions with experienced counsel for the owner and contractor. Learn what industry trends prompted innovative changes such as introducing the “Initial Decision Maker” and moving away from arbitration as the only binding method for resolving disputes. Tough questions will be posed as to why some changes were adopted and other longstanding issues passed over in this revision cycle.

SPEAKERS:

Jules Hoffar (Moderator)
Watt Tieder Hoffar & Fitzgerald, LLP,
McLean, VA

Timothy R. Twomey, AIA
Shepley Bulfinch Richardson & Abbot,
Boston, MA

W. Alexander Moseley
Hand Arendall LLC, Mobile, AL

Lynn R. Axelroth
Ballard Spahr Andrews & Ingersoll,
Philadelphia, PA

conference information

ADVANCE REGISTRATION

Please complete and return the attached registration form with your payment by **JANUARY 17, 2008**. 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 **JANUARY 17, 2008**.

Conference registrations will only be accepted when accompanied by a check, money order, Visa, American Express or MasterCard information. Credit card registrations may be FAXED to T-Rex directly at (630) 262-1520. Registrations cannot be held without payment. A registration form is included in this brochure as well as online at www.abanet.org/forums/construction.

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

In order to be listed in the pre-registration list distributed at the program, registrations must be received by **JANUARY 17, 2008**. If you do not receive a written confirmation by **JANUARY 17, 2008**, please call T-Rex directly at (630) 262-1599 to verify that your registration form and payment 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, lunch, 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 **JANUARY 17, 2008**. To receive a fund (less a \$50 administrative fee), cancellations must be made **IN WRITING** and **RECEIVED** on or before **JANUARY 17, 2008**. 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 program, and assumes no responsibility for personal expenses.

HOTEL

The conference will be held at The Sheraton New York Hotel & Towers, 811 7th Avenue, New York, NY 10019. Reservations can be made by calling the hotel directly at (212) 581-1000. The Forum and TIPS room rate is \$249 S/D. We have reserved a block of rooms, and the reservation deadline is Friday, January 11, 2008 or until our block is sold out (whichever comes first). After this date (or the block is sold out) the ABA cannot guarantee rooms or availability, and the hotel will assign rooms on a space available basis. All changes to and cancellations of hotel reservations must be made 48 hours prior to the scheduled date of arrival to avoid a one-night cancellation charge. Rooms shall be available for check-in no later than 3:00pm with a check-out time of noon. Please refer to the ABA Fidelity & Surety Midwinter Meeting, to receive the negotiated rate.

AIR TRANSPORTATION

Discounted airfares are available for travel to ABA Master Calendar meetings. ABA and Travelocity negotiated airfare discounts and web only fares are available to members at ABA Online Travel. To access ABA online travel, go to www.abanet.org, "Member Tools," and at ABA Online travel you will have automatic access to meeting airfare discounts, web fares and web book only. The ABA's toll free number for Travelocity Business is 1-866-321-8403.

CLE CREDIT

Accreditation has been requested for the conference from every state with mandatory continuing legal education (MCLE) requirements for its lawyers. AIA accreditation has also been requested for this program. 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) 988-5678 2 to 3 weeks before the conference.

MEMBERSHIP

As an added bonus to new members, the member's tuition rate will be available to registrants who become members of the Forum or TIPS on or before the first day of the program. For your convenience, a Forum membership form is included in the brochure. 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

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 Shannon Harrity, American Bar Association, 321 N Clark Street, Chicago, IL 60610, or Fax to (312) 988-5677, no later than **JANUARY 17, 2008**.

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.

For a brochure on the 2008 ABA Tort Trial and Insurance Practice Section, Fidelity & Surety Law Committee Midwinter Meeting, Friday, February 1, 2008 call (312) 988-5672 or visit www.abanet.org/tips.

Program Registration Form

Housing Deadline: JANUARY 11, 2008
EARLY BIRD Registration Deadline: JANUARY 17, 2008

* THIS FORM IS AVAILABLE ONLINE AT: www.abanet.org/forums/construction/home.html

Please print or type

1. REGISTRANT INFORMATION:

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 name to appear on badge)

2. REGISTRATION FEES:

You may use this form to register for the Forum on the Construction Industry/TIPS Joint Meeting as well as the ABA TIPS FSLC Midyear Meeting.

A. THURSDAY, JANUARY 31, 2008

The Forum on the Construction Industry
2008 Midwinter Meeting (Co-sponsored by TIPS
FSLC)

	ON OR BEFORE	AFTER
	1/17	1/17
<input type="checkbox"/> General Attendees	\$550	\$600
<input type="checkbox"/> Forum Members	\$450	\$500
<input type="checkbox"/> TIPS Members	\$450	\$500
<input type="checkbox"/> Government/Academic/YLD	\$320	\$370
Insurance Company Employees:		
<input type="checkbox"/> Non-TIPS members	\$290	\$315
<input type="checkbox"/> TIPS members	no charge	\$315
<input type="checkbox"/> Law Students	\$225	\$275
Subtotal	\$_____	\$_____

B. FRIDAY, FEBRUARY 1, 2008

ABA TIPS Fidelity & Surety Law Committee
2008 Annual CLE Midwinter Meeting

	ON OR BEFORE	AFTER
	1/14	1/14
<input type="checkbox"/> General Attendees	\$550	\$600
<input type="checkbox"/> Forum Members	\$450	\$500
<input type="checkbox"/> TIPS Members	\$450	\$500
<input type="checkbox"/> Government/Academic/YLD	\$320	\$370
Insurance Company Employees:		
<input type="checkbox"/> Non-TIPS members	\$225	\$250
<input type="checkbox"/> TIPS members	no charge	\$200
<input type="checkbox"/> Law Students	\$150	\$175
Subtotal	\$_____	\$_____

3. SOCIAL EVENT TICKETS:

Event	Fee	Quantity	Total
1/31/08 THURSDAY LUNCHEON		_____	\$_____
Cost included in Thursday's registration			

****YOU MUST SIGN UP FOR LUNCH TO ATTEND****

Spouse/Guest Ticket \$80 _____ \$_____

1/31/08 TIPS FSLC WELCOME RECEPTION
Cost included in Friday's registration

Spouse/Guest Ticket \$60 (\$65 at door) _____ \$_____

2/01/08 TIPS FSLC LUNCHEON
Cost included in Friday's registration

Spouse/Guest Ticket \$80 _____ \$_____

****YOU MUST SIGN UP FOR LUNCH TO ATTEND****

Subtotal \$_____

4. MATERIALS ONLY:

I will not be attending the seminars and wish to order program materials for:

<input type="checkbox"/> The Forum on the Construction Industry/ TIPS FSLC Joint 2008 Meeting	\$150
Subtotal	\$_____

5. TOTAL PAYMENT:

Total (Add subtotals 2a, 2b, & 3 or 4): \$_____

6. PAYMENT INFORMATION:

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

Credit Card Number Expiration Date

Signature

7. MEMBERSHIP APPLICATIONS:

- Please enroll me as a member of the Forum on the Construction Industry. Membership fee (\$50 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):
- _____

I have enclosed a separate check for \$50 made payable to the American Bar Association.

- I am a member of the ABA and wish to join the Tort Trial & Insurance Practice Section. I have enclosed a separate check for \$50 made payable to the American Bar Association.

8. THREE 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:
(630) 262-1520
T-Rex phone is (877) 309-1565 or (630) 262-1599