

THE BASIC COURSE IN TEXAS CONSTRUCTION LAW

Hilton Austin Downtown
Austin, Texas
December 1 & 2, 2022



Earn 14.25 MCLE Hours
including 1.00 Hour Ethics

Designed for
Texas Lawyers and
Construction Industry
Members and
Professionals



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

THE BASIC COURSE IN TEXAS CONSTRUCTION LAW

Sponsored by *The Construction Law Foundation of Texas* and

The Construction Law Section of the State Bar of Texas

DECEMBER 1 & 2, 2022

Hilton Austin Downtown • 500 E. 4th St. • Austin, Texas 78701

This course has been approved for 14.25 hours credit (including 1.00 hour of ethics credit) which will apply towards MCLE, the College of the State Bar of Texas, and the Texas Board of Legal Specialization in Construction Law, Civil Trial Law and Real Estate Law. To obtain full MCLE credit, you must attend all sessions, including the luncheons. If you need CLE credit in a state other than Texas, please let us know at registration.

CPAs may obtain 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 14.0 hours of General credit (all license types.) Approved hours may vary.

The organizers of this conference believe there are approximately 14.25 hours of continuing education credit for architects potentially available over the two-day course. Members of the American Institute of Architects should self-report continuing education to AIA at <http://www.aia.org>. For reporting to the Texas Board of Architectural Examiners, see <http://www.tbae.state.tx.us/Registrants/ContinuingEducation.shtml>.

This course is eligible for MCE credit through the Texas Real Estate Commission.

HERE'S WHY YOU SHOULD ATTEND:

The course is intended for Texas lawyers and construction industry members and professionals who are interested in acquiring a basic knowledge of Texas construction law, legal relationships between owners, designers, contractors, and their insurers and sureties, and also serves as an introduction to construction industry contracts.

The two-day course will emphasize the practical aspects of construction law, including discussion of construction contracts, Texas lien laws, and construction disputes and their resolution. Attendees will acquire a basic glossary of construction terms and concepts, understand the relationships between the major players in the construction process, and be able to recognize and avoid common pitfalls in contract drafting and in construction litigation.

The program will be taught by experienced construction lawyers who will emphasize the practical aspects of construction law in a setting that will provide ample opportunity for discussion and follow-up questions. The course materials will include a syllabus of recent articles, publications, and cases, together with a glossary and original program materials.

PROGRAM

THURSDAY, DECEMBER 1, 2022

8:00 a.m. **Late Registration** – Ballroom Foyer, The Hilton Austin,
500 E. 4th St., Austin, TX 78701
Telephone: (512) 482-8000

8:00 a.m. **Continental Breakfast** – *Sponsored by Walter P. Moore Technology, LLC*

8:50 a.m. **Welcoming Remarks**
Gregory M. Cokinos, Houston (*Foundation President*)
Kyle A. Zunker, San Antonio (*Presiding Officer*)

9:00 a.m. **Overview of the Construction Industry and Glossary of Construction Terms** – An explanation of the way the construction industry operates and an introduction to the terminology commonly encountered in the practice of construction law.
Andrew S. Harris, Austin

10:00 a.m. **Causes of Action in Texas Construction Law** – Choosing the right cause of action early on in a case can mean the difference between ultimate success and failure. Learn the most common causes of action and how different ones can help (or hurt) your case.
Rekha R. Roarty, Austin

11:00 a.m. **Morning Break** – *Sponsored by American Construction Investigations, Ltd. (ACI)*

- 11:15 a.m. **Project Documents** – This presentation focuses on the documents commonly used on commercial construction projects. The overview of key documents should help the practitioner understand the flow of a construction project, along with documents that may be of value in litigation.
Adam J. Richie, Austin
- 12:15 p.m. **LUNCHEON:** *Tickets for registrants may be purchased for \$25. Please purchase your tickets in advance. Tickets will not be sold at the door.*
The Successful Preparation and Use of Construction Experts – Through their testimony and written reports, experts are indispensable for educating judges, juries and arbitrators about complex construction issues. Learn practical guidelines, tips and examples of proper selection and preparation of experts, including when to recognize that you need one.
Tracy McCreight, Austin
- 1:15 p.m. **Break**
- 1:30 p.m. **Arbitration** – Arbitration is designed to be a faster and more efficient alternative to the traditional court system. In addition, a majority of construction contracts now contain arbitration provisions. This session covers the logistics, rules, and practical considerations involved in arbitration.
Megan R. Kateff, Austin
- 2:15 p.m. **Contracts Panel – Owner/GC/Sub Perspectives** – Owners, general contractors, and subcontractors each have their own pressure points and goals in negotiating their construction contracts. This panel discussion will cover some of the key issues and provisions that can help all parties allocate risks and prepare when things go awry.
Moderator: Karly Houchin, Austin
Michael C. Roberts, Austin [*Owner*]
David Gregorcyk, Austin [*GC*]
Christopher G. Burwell, San Antonio [*Sub*]
- 3:30 p.m. **Afternoon Break** – *Sponsored by FTI Consulting, Inc.*
- 3:45 p.m. **Contract Termination** – When faced with a contractual breach, a lawyer must provide the client with the tools and information necessary to assess the pros and cons of termination, often under very time-pressured circumstances. This topic will help provide decision-makers with “informed consent” in deciding whether or not to cross this threshold, including ensuring compliance with contractual procedures to mitigate exposure to wrongful termination claims.
Blake Wilson, Austin
- 4:30 p.m. **Adjourn to Reception** – *Sponsored by Interface Consulting International, Inc. & Nelson Forensics, LLC*

FRIDAY, DECEMBER 2, 2022

- 8:00 a.m. **Continental Breakfast** – *Sponsored by Fiebig Architecture, PLLC*
- 8:30 a.m. **Top Cases Every Construction Lawyer Should Know** – This topic will familiarize the audience with the fundamental cases in construction law. These cases are often cited, often utilized, and often debated. In any event you simply must know these cases and how they shape Texas construction law.
Lauren S. Aldredge, Austin
- 9:30 a.m. **Theories of Liability Against Architects and Engineers** – Claimants continue to craft new theories of liability to expand the scope and liability of the architect or engineer, or to avoid defenses like the economic loss rule or lack of privity. This presentation will outline the most common theories of liability and discuss substantive and procedural developments affecting claims against architects and engineers.
Christopher D. McMillan, Austin
- 10:15 a.m. **Morning Break** – *Sponsored by Bryant Consultants, Inc.*
- 10:30 a.m. **Insurance Basics for the Construction Lawyer** – Every construction lawyer and industry participant should understand the key elements of insurance coverage and claims on construction projects, as well as how to secure and maximize the client's rights under all available policies. This presentation will help illuminate the field and show how to avoid the loss of available insurance coverage and proceeds.
Rebecca DiMasi, Austin

- 11:30 a.m. **Securing and Enforcing Lien & Bond Claims in Texas** – Texas has one of the most complicated and dangerous statutory systems in the country for mechanics’ and materialmen’s liens. Learn how to avoid costly mistakes, how to find relief in statutorily required payment bonds, and how to take advantage of alternative payment sources when a good project experience goes bad.
Matthew L. Motes, Fort Worth
- 12:15 p.m. **Break**
- 12:30 p.m. **LUNCHEON:** *Tickets for registrants may be purchased for \$26. Please purchase your tickets in advance. Tickets will not be sold at the door.*
What Works and Doesn’t Work in Construction Mediation – Mediation often presents the last, best chance for clients to resolve a claim before trial, arbitration, or devastatingly expensive discovery battles. An experienced construction mediator offers his views on both successful and ineffective mediation strategies.
Mark L. Hawkins, Austin
- 1:30 p.m. **Residential Construction – A Holistic Approach** – Practical advice for owner, contractor, and subcontractor clients regarding critical, unique issues for residential construction projects, contracts, and disputes, including an overview of the Residential Construction Liability Act (RCLA).
David C. “Clay” Snell, San Antonio
- 2:30 p.m. **Afternoon Break** – *Sponsored by Lighthouse Consulting Group*
- 2:45 p.m. **Public Procurement in Texas** – Public contract law is both similar and different from the private realm. It is governed by more statutes; it is more consistent in its rules; it can contain more barriers for the private contractor than he or she is used to. But with the deep pockets involved in the public sector, that is where “the action” often is, so familiarity with its promises and pitfalls is a necessity.
Jerry M. Negrete, Austin
- 3:45 p.m. **Tips on Avoiding Malpractice** – This presentation will introduce perils encountered by practitioners, key strategies and day-to-day law practice management tips that will help avoid malpractice claims and grievances.
Jessica Haile, Abilene
1.00 Ethics Credit
- 4:30 p.m. **Adjourn**

CONFERENCE FACULTY

Lauren S. Aldredge, Austin
Cokinos | Young

Christopher G. Burwell, San Antonio
Bailey & Bailey, P.C.

Rebecca DiMasi, Austin
Shidlofsky Law Firm PLLC

David Gregorcyk, Austin
Journeyman Construction, Inc.

Jessica Haile, Abilene
McMahon Surouik Suttle, P.C.

Andrew S. Harris, Austin
Andrews Myers, P.C.

Mark L. Hawkins, Austin
Armbrust & Brown, LLP

Karly Houchin, Austin
Allensworth Law

Megan R. Kateff, Austin
Allensworth Law

Tracy McCreight, Austin
Duane Morris, LLP

Christopher D. McMillan, Austin
Culhane Meadows PLLC

Matthew L. Motes, Fort Worth
Shackelford, Bowen, McKinley & Norton, LLP

Jerry M. Negrete, Austin
The Chapman Firm PLLC

Adam J. Richie, Austin
Munsch Hardt Kopf & Harr, P.C.

Rekha R. Roarty, Austin
The Roarty Law Firm, PLLC

Michael C. Roberts, Austin
Jackson Walker, L.L.P.

David C. “Clay” Snell, San Antonio
Bayne, Snell & Krause

Blake Wilson, Austin
Winstead PC

Foundation President / Section Chair

Gregory M. Cokinos, Houston
Cokinos | Young

Presiding Officer

Kyle A. Zunker, San Antonio
Cokinos | Young

Conference Sponsors also include:

- * **Flash Drives** – Spire Consulting Group, LLC
- * **Internet** – Rimkus Consulting Group, Inc.
- * **Name Badge Lanyards** – Weaver
- * **Notepads** – Thornton Tomasetti
- * **Power Strips** – Precision Scheduling Consultants, LLC
- * **Tote Bags** – Socotec

GENERAL INFORMATION

Hilton Austin Downtown – A limited number of rooms have been reserved at The Hilton Austin at the special rate of \$299.00 per night plus taxes for a single/double. The hotel is located at 500E. 4th St., Austin, TX 78701. **The hotel deadline is November 9, 2022 or until the room block is exhausted, whichever comes first.** You must request the “Basics in Construction Law” group rate in order to obtain a room in our room block. Please call the hotel directly at (512) 482-8000 or visit <https://book.passkey.com/go/BasicsInConstructionLaw>. 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 \$100.00. *No audio/video version is available.* Your registration includes the course materials on USB drive. The printed 3-ring binder is available to purchase for an additional fee.

Registration by Telephone or Online — You may register by calling (512) 451-6960 or visiting www.constructionlawfoundation.org. Phone and online registrations require an AMERICAN EXPRESS, VISA or MASTERCARD number, expiration date, security code and billing address with zip code.

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 course. 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.

REGISTRATION FORM

Mail to: The Construction Law Foundation of Texas
The Basic Course in Texas Construction Law 2022
P.O. Box 4646
Austin, Texas 78765-4646

FAX to: 512/451-2911
Phone: 512/451-6960
Online: www.constructionlawfoundation.org
(Phone, Fax and Online Registrations must be accompanied by American Express, Visa or MasterCard Information.)

Make checks payable to: The Construction Law Foundation of Texas

Please register me for the course as follows:

- ☐ Pre-Registration fee for CL Section Members (Due by 5 p.m. November 18) \$ 395.00
☐ Pre-Registration fee for Non Members (Due by 5 p.m. November 18) \$ 445.00
☐ Registration fee (After 5:00 p.m. November 18 and before 5:00 p.m. November 25) \$ +50.00
☐ Late Registration fee (After 5:00 p.m. November 25 and at the door) \$+100.00
___ Thursday Luncheon Tickets at \$25.00 each \$ _____
___ Friday Luncheon Tickets at \$26.00 each \$ _____
☐ Construction Law Section Dues (*eligible for the discounted member registration fee*) \$ 30.00

Course Materials: Your registration fee includes the course materials on USB Drive.

You may also purchase the printed binder version for an additional fee below.

- ☐ Add Printed Version (3-Ring Binder) at \$50 + .0825 tax \$ 54.13

I cannot attend the course. Please forward the following:

___ Course Materials Only (☐USB or ☐Printed) at \$160 + .0825 tax \$ 173.20

TOTAL ENCLOSED \$ _____

No refunds after 5:00 p.m., Friday, November 25, 2022. See cancellation policy above.

(Please Print)

Name _____

Firm _____

Address _____

City _____ State _____ Zip _____

Telephone _____ Fax _____

E-mail _____ Bar Card No. _____

Make Checks payable to: The Construction Law Foundation of Texas

Please Charge: ☐ AMEX ☐ VISA ☐ MASTERCARD

Card No. _____ Exp. Date _____

Name on Card _____ 3 or 4 Digit Security Code _____

Authorized Signature _____

Billing Address (Street+C/S/Z) _____

Construction Law
Foundation of Texas
P.O. Box 4646
Austin, Texas 78765-4646



THE BASIC COURSE IN TEXAS CONSTRUCTION LAW ...

has been designed for the 1-5 year lawyer,
the senior lawyer who hasn't been involved in a
construction law case, contractors, design professionals
and others who are interested in gaining a basic
knowledge of Texas construction law.

December 1 & 2, 2022
Hilton Austin Downtown * Austin, Texas

PRESORTED STANDARD
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