

Preventing or Minimizing Future Construction Defect Litigation

DECEMBER 11, 2018

CROWNE PLAZA
DOWNTOWN

Seattle, WA

Available Via:



Live
Webcast

ACCREDITATION

WA MCLE 6.0 Law & Legal Credits

OR CLE 6.0 General Credits

CA CLE 6.25 General Credits

AIA 6.25 LU's

IRMI 7.0 CRIS Reaccreditation Credits

Contractors & Engineers May Qualify

Seminar Overview

Construction and design defects are the scourge of the construction industry and continue to inflict significant losses on owners, designers, contractors, material suppliers and insurers. Some companies are changing how (and whether) they conduct business in certain markets, such as the condominium market. For all companies, the standard assumptions for risk transfer and insurance coverage no longer apply. Instead, companies are continually adjusting their practices in response to changes in market conditions and the law.

This seminar will focus on strategies and tactics employed to avoid and address construction defect problems. Attending this seminar will help keep you on the cutting edge of the ever-changing world of construction defects.

Who Should Attend:

Architects
Attorneys
Contractors
Engineers
Insurance Professionals

9:00 Introduction and Overview

Sommer B. Clement, Program Co-Chair
Carney Badley Spellman PS

Masaki J. "Saki" Yamada, Program Co-Chair
Ahlers Cressman & Sleight PLLC

9:10 Defenses

Statute of repose; statutes of limitations; affirmative defense in RCW 4.16.326(1)(g); repair doctrine; application of statutes of limitations and repose and discovery rule; claim-specific statutes of limitations (subject to tolling); failure to follow the warranty claim process; disclaimer of warranties; completion and acceptance doctrine; *Spearin*; RCW 4.24.115

Anthony R. Scisciani III
Scheer Law Group LLP

Joseph L. Hogan
Scheer Law Group LLP

10:00 Construction Defect Claims – Legal Perspective

Breach of contract; breach of warranty; implied warranty of quality; indemnity; violation of Consumer Protection Act; negligence/negligent misrepresentation; implied warranty of habitability; breach of fiduciary duty; fraudulent concealment/fraudulent misrepresentation; Products Liability Act

Whitney L.C. Smith
Wilson Smith Cochran Dickerson

10:45 Break

11:00 Key Statutes

Notice of claim/contractor's right to offer to cure; RCW 64.55.100-160 - resolution of disputes for WCA liability; RCW 64.55.020-090 - inspections of multiunit residential buildings; Common Interest Act

T. Daniel Heffernan
Heffernan Law Group PLLC

A. Grant Lingg
Forsberg & Umlauf PS

12:00 Interplay of Liability Insurance with Construction Defect Lawsuits

Does the policyholder have to abandon its counter-claims simply because an insurance company pays the settlement? (and other interesting issues)

Gregory L. Harper
Harper | Hayes PLLC

12:45 Midday Break

2:00 Construction Defect Claims – Expert's Perspective

The design process and the forensic process: how the former informs the latter

Robert Bombino, MS, PE, Principal/Sr. Building Science Specialist
RDH Building Science, Inc.

David A. Deress, PE, RA, Branch Mgr./Principal
Wiss Janney Elstner Associates, Inc.

3:00 Break

3:15 Damages

Lesser of cost of repair or diminution in value; condominium claims; consequential damage; rescission; diminished value; attorneys fees

John K. Butler
Preg O'Donnell & Gillett PLLC

Seth E. Chastain
Levy | von Beck | Comstock | PS

4:15 Dispute Resolution

Mediation and arbitration of defect claims - how to prepare for success

Richard H. Skalbania
Ashbaugh Beal LLP

5:00 Adjourn

Faculty - Construction Defects



Sommer B. Clement, Program Co-Chair, is Of Counsel with Carney Badley Spellman PS. She practices in the areas of construction and real estate transactions and litigation, civil litigation, and insurance defense. She drafts contracts and provides risk management advice to companies involved in construction, development, design, and sale of buildings, public works, and real estate.



Masaki J. "Saki" Yamada, Program Co-Chair, is a Partner at Ahlers Cressman & Sleight PLLC. His practice focuses on preparing and negotiating construction contracts (private & public), resolving complex construction disputes on behalf of general contractors, subcontractors, developers, business and property owners, and design professionals, and handling L&I appeals and issues for contractors.



Robert Bombino, MS, PE, is a Senior Building Science Specialist and President of RDH Building Science, Inc. He has extensive experience with a variety of building enclosure systems, components, and materials including steep- and low-slope roofing systems, wall cladding, windows, glazing, glass/metal curtain walls, and below-grade/plaza waterproofing systems.



John K. Butler is a member of Preg O'Donnell & Gillett PLLC. He practices in the areas of business litigation; construction disputes, injuries, defects and project safety; insurance defense litigation; product liability; transportation and trucking litigation. He is a frequent presenter on construction defect issues including the application of alternative measurements of damages.



Seth E. Chastain is a shareholder at Levy | von Beck | Comstock | PS. His practice focuses primarily on construction defect litigation, business disputes, general civil litigation, and commercial collections. His clients include business owners, contractors, homeowners, and material suppliers. *Super Lawyers* recently named him to its list of "Rising Stars" for the second year in a row.



David A. Deress, PE, RA, is a principal and the Seattle and Portland branch manager of Wiss Janney Elstner Associates, Inc., a firm of architects, engineers and material scientists. He is registered as an architect and professional engineer. He has 32 years of experience with inspection and investigation of failures of building facades, waterproofing and roofing problems.



Gregory L. Harper is a founding member of Harper|Hayes PLLC, a law firm representing policyholders in insurance and bad faith litigation. He handles cases involving all lines and types of insurance including general liability, property, builder's risk, errors and omissions, maritime, professional liability, employment practice, and director's and officer's coverages.



T. Daniel Heffernan, a member at Heffernan Law Group PLLC, has over thirty years of experience in construction and insurance coverage law and commercial litigation, including construction-defect and condominium law. He represents owners, developers, contractors, and design professionals in construction and property development in both the public and private sectors.



Joseph L. Hogan is an attorney at Scheer Law Group LLP. He focuses his practice on complex civil litigation, including defending businesses and individuals against a variety of personal injury, products liability, construction defect, and property damage lawsuits. He has second-chaired a 10-day construction defect trial, and written successful summary judgment motions.



A. Grant Lingg is a shareholder with Forsberg & Umlauf PS. His tort and insurance practice includes defense of construction site injury, construction defect, professional liability, product and premises liability, and commercial claims. He has successfully defended clients against construction site claims, including personal injury and building defect/warranty cases.



Anthony R. Scisciani III is a partner at Scheer Law Group LLP. He works closely with construction clients to resolve disputes at all phases of the construction, development and/or sale of residential, commercial, and mixed-use properties. He also represents businesses and individuals with claims involving liens, personal injury, wrongful-death, and premises liability issues.



Richard H. Skalbania is a partner at Ashbaugh Beal LLP and has been with the firm since its inception in 1987. During his 30-year career, he has successfully represented clients in some of the most high-profile construction disputes in the PNW including Seahawks Stadium, Safeco Field, Key Arena, the downtown Seattle Library, the Rainier Valley Sound Transit Light Rail and the SR 99 Bored Tunnel.



Whitney L.C. Smith is the managing shareholder of the law firm Wilson Smith Cochran Dickerson. His practice focuses on defense of owner associations, construction defect litigation, product liability litigation and complex personal injury. In construction defect matters, he has defended developers, owner consultants, general contractors, subcontractors and suppliers.

Construction Defects

Credits

WA MCLE

This course has been approved for 6.0 hours of law and legal CLE credit by the Washington MCLE board (Live Credits for In Person Attendance & Webcast). Self-Study credit will be available, specific credit amount to be determined.

The Seminar Group is an accredited sponsor with the Washington State Bar

OR CLE

This course has been approved by the Oregon State Bar for 6.0 general CLE credits (Live Credits for In Person Attendance & Webcast).

CA CLE

The Seminar Group is a State Bar of California approved MCLE provider; therefore, this course is approved for 6.25 general CLE credits (Live Credits for In Person Attendance & Webcast).

AIA

This course has been approved by The American Institute of Architects for 6.25 LU's (Live Credits for In Person Attendance ONLY). Credits for recorded courses not available. The Seminar Group is an AIA CES Approved Provider.

IRMI

This course has been approved by the IRMI for 7.0 hours of CRIS reaccreditation credits (Live Credits for In Person Attendance ONLY). Credits for recorded courses not available.

Contractors & Engineers

Contractors and engineers may qualify for continuing education hours through the American Institute of Constructors or the Construction Management Association of America.

Location

Crowne Plaza Seattle Downtown

1113 Sixth Avenue
Seattle, WA 98101

Phone: 206-464-1980

The seminar is located in the Yellowstone Room. Please call the venue for directions/questions.

PARKING

Onsite parking is available. Please contact the venue for the current rate.

Fees

Live Seminar:

Attorney	\$549.00
Government / Tribal / Non-Profit	\$449.00
Other Professionals	\$449.00
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