

Understanding & Negotiating Commercial Construction Contracts

Drafting, negotiation, risk mitigation and dispute resolution

Construction law is a hybrid practice area, utilizing the contract drafting and negotiation skills of a corporate lawyer with the risk mitigation and dispute resolution expertise of a litigator. This program focuses on both areas: drafting key construction contract provisions and then using those provisions in the context of litigation.

First, the panel identifies the more widely used forms and structures of construction contracts, with a focus on some of the more commonly negotiated provisions. Next, the panel discusses the contract provisions that most often arise in claims and impact litigation strategy in the event of a project dispute. Then, the panel explains several key Massachusetts statutes which have a direct impact on the extent and enforceability of construction contract provisions. Finally, the panel addresses various strategies to use when negotiating construction contracts. Develop and sharpen your practice toolkit at MCLE.

Agenda

- **Types of Construction Contracts and Their Basic Elements**
 - AIA, Consensus Docs, Public/Government Project Forms
 - Cost Delivery Clauses (Lump sum / cost-plus with GMP)
 - Force Majeure Clauses
 - Change Order Provisions
 - Insurance Requirements and General Conditions
- **Common “Claims” Provisions**
 - Termination for Cause v. Convenience
 - Dispute Resolution: Arbitration v. Litigation
 - Damages and Delay Provisions (Liquidated damages, Waiver of consequential damages, No damages for delay, Loss productivity claim protection, Initial decision makers)
- **Statutory Impact on Construction Contracts**
 - Prompt Payment Act
 - Retainage Act
 - Anti-Indemnity Statutes
- **Contractual Negotiation Strategies**
 - Provisions Most Important to Owner v. Contractor
 - Impact on Third Parties (Architect, Lender)

Faculty

Sara P. Bryant, Esq., *Murtha Cullina LLP, Boston*

Bradley L. Croft, Esq., *Ruberto, Israel & Weiner, PC, Boston*

Bruce I. Tribush, Esq., *Goodwin Procter LLP, Boston*



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Dates & Location

Register at www.mcle.org

LIVE WEBCAST

Tuesday, November 8, 2022

2:00 pm–5:00 pm

Program Number: 2230019WBC

REBROADCAST

Wednesday, November 23, 2022

9:00 am–12:00 noon

Program Number: 2230019RBC

REBROADCAST

Thursday, December 1, 2022

2:00 pm–5:00 pm

Program Number: 2230019RB1

ON DEMAND WEBCAST

View after Thursday, December 1, 2022

Program Number: 2230019WBA

Tuition *(includes written materials)*

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- \$220.50 MCLE Sponsor Members
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Also, there is no need to take extensive notes. Two weeks after the live webcast, all registrants receive a link to a verbatim transcript and audio and videorecordings of this program.

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- Solo Practitioners \$95
- Firms by number of Massachusetts attorneys:
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 - 6-10 250 ■ 151-250 3,500
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