From Handshake to Payment: Navigating the Legal Landscape of the Modern Construction Project from Drafting Agreements to Litigating Disputes

2017 North Carolina/South Carolina Joint Construction Law Program

SUMMARY: The construction industry has changed and the law is (working on) catching up. While traditional construction project delivery methods have been improved and honed, innovative delivery methods have brought about a new landscape of contracts and litigation. Collaborative projects—especially those with preconstruction design and input by contractors—have given rise to creative agreements that shift duties and responsibilities among the parties. New technology and risk-management products have further changed common construction contracts as well as the counsel practitioners must give clients. As the Spearin Doctrine and the AIA’s Mutual Waiver of Consequential Damages celebrate their respective anniversaries, this program examines the changing landscape and the ways it impacts the modern construction attorney. Join attorneys from North and South Carolina as they discuss the best approaches to drafting agreements for the common (and uncommon) delivery methods, then navigate disputes in the context of these delivery methods and agreements.

The North Carolina Bar Association is accredited by the North Carolina State Bar as a provider of continuing legal education.
2017 North Carolina/South Carolina Joint Construction Law Program
#640CLM | September 22–23, 2017

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VIDEO REPLAY LOCATIONS | For details and updates, see www.tinyurl.com/CLE640CLM
[ ] Cary | #640BAR | Dec. 12–13
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Program Agenda

Thursday, September 21, 2017, 6:00–7:30p

6:00p  **Early Arrivals Reception**  
Renaissance Hotel, 31 Woodfin Street–12th Floor, Asheville  
Sponsored by Contract Solutions and FNB

Friday, September 22, 2017, 8:15a–4:45p

8:15a **Registration and Continental Breakfast**  
(Breakfast included at Live program only)  
Sponsored by FTI Consulting

8:55  **Welcome and Introductions**

9:00  **The Hard-Bid Life**  
Stephen B. Williamson  
Hear a review of modern considerations in Design-Bid-Build contracting on public and private jobs.

10:00  **Break**

10:15  **Take the Bull by the Horns, or Maybe the Tail**  
John W. Davidson and Allen L. West  
Speakers take a look at Design-Build and CM at risk contracts, including the risks and pitfalls.

11:15  **Where Are We and How Did We Get Here?**  
Gregory L. Shelton  
Explore the history of the Spearin Doctrine and the Mutual Waiver of Consequential Damages as we celebrate (or curse) their anniversaries. This year, 2017, is the 100th Anniversary of the Spearin Doctrine and the 20th Anniversary of Mutual Waiver of Consequential Damages (1997 A201 general conditions revision).

12:15p **Networking Lunch** (included at Live program only)  
Sponsored by AWR & Associates Court Reporting & Litigation Services and MBP

**Construction Law Section Annual Meeting**  
B. David Carson, Johnston Allison & Hord PA, Charlotte, 2017-2018 Construction Law Section Chair, Presiding

1:30  **It’s a Brave New (and Confusing) World**  
Edward B. Davis and Samuel T. Reaves  
Explore alternative/newer methods (e.g., integrated project delivery, public private partnerships, public job order, indefinite delivery contracts and more).

2:30  **Let ’Em Work, Let ’Em Live**  
Mark M. Stubley  
Learn about employment law considerations in the construction context.

3:30  **Break**  
Sponsored by Construction Science & Engineering Inc.
3:45  **Attorney-Client Privilege, Confidentiality, and the Work Product Doctrine: Traps for the Inattentive Litigator**
Warren T. Savage
Through a discussion of recent case law, ethics opinions and hypotheticals, this session addresses how lawyers can best protect the confidentiality of communications with their clients through the course of litigation.

4:45  **Adjourn**

5:30  **Reception** (until 7:00p)
Pack’s Tavern, 20 South Spruce Street, Asheville
Sponsored by Applied Building Sciences, Construction Process Solutions Ltd. and Envisa Forensics

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**Saturday, September 23, 2017, 8:15a–12:15p**

8:15a  **Registration and Continental Breakfast**
(Breakfast included at Live program only)
Sponsored by Stasmayer Inc.

8:55  **Welcome and Introductions**

9:00  **Bringing the Dark Side of the Law into the Light: Mental Health and Substance Abuse†**
Brian S. Clarke
Hear from professor Brian Clarke who shares his experience as an attorney, husband and father who has battled depression. Clarke discusses his symptoms and struggle prior to diagnosis, taking leave to obtain treatment, the value of peer support through the North Carolina State Bar’s Lawyer Assistance Program, managing his illness through a combination of medication and therapy and the hope that he feels today. Also, he addresses reasons for the mental health crisis among lawyers and offers practical solutions to lawyers for improving their mental health—to the benefit of themselves, their families, their firms and their clients.

10:00  **Carolina(s) On My Mind**
L. Franklin Elmore and Jay M. Wilkerson
Speakers provide a joint case law update for North and South Carolina—those present should still organize themselves by understanding of which “Carolina” they cheer for.

11:00  **Break**
Sponsored by Forensic Engineering Inc.

11:15  **Sticky Issues in Arbitration**
C. Allen Gibson Jr. and A. Holt Gwyn
Can arbitrators undertake independent research of the law or facts? Do you want to taint your chairman with privileged knowledge during an in-camera review? These and more issues are explored.

12:15p  **Adjourn**

* Indicates portion providing Ethics/Professional Responsibility credit
† Indicates portion providing Substance Abuse/Mental Health credit

We extend our sincere gratitude to the NCBA Construction Law Section, the South Carolina Bar Construction Law Section, as well as the planners and speakers who volunteer their time and expertise toward the goal of presenting an educational program of the very highest quality.
Planners
- Carl J. Burchette, Hamilton Stephens Steele & Martin PLLC, Charlotte
- Emily R. Gifford, Richardson Plowden & Robinson PA, Columbia, SC
- Parker E. Moore, Johnston Allison & Hord PA, Charlotte
- Caleb M. Riser, Richardson Plowden & Robinson PA, Columbia, SC

Speakers
- Brian S. Clarke, Western Carolina University, Charlotte
- John W. Davidson, Nexsen Pruet, Columbia, SC
- Edward B. Davis, Bell Davis & Pitt, Charlotte
- L. Franklin Elmore, Elmore Goldsmith PA, Greenville, SC
- C. Allen Gibson Jr., Womble Carlyle Sandridge & Rice LLP, Charleston, SC
- A. Holt Gwyn, Conner Gwyn Schenk PLLC, Greensboro
- Samuel T. Reaves, Troutman Sanders LLP, Charlotte
- Gregory L. Shelton, Horack Talley Pharr & Lowndes PA, Charlotte
- Mark M. Stuble, Ogletree Deakins Nash Smoak & Stewart PC, Greenville, SC
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Renaissance Asheville Hotel
31 Woodfin Street, Asheville
Nightly Rate: $224
Reservations: 828.252.8211 or www.tinyurl.com/NCBA-ConstructionLaw

**Rate Code:** NC Bar Association
**Cutoff Date:** August 23, 2017

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LIVE
Friday–Saturday, September 22–23, 2017
Renaissance Asheville Hotel, Asheville

CLE CREDIT: 9.0 Hours
Includes 1.0 Hour of Ethics/Professional Responsibility and 1.0 Hour Substance Abuse/Mental Health

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Managing Editor: Gregory L. Shelton
This newly revised edition of the comprehensive NC Construction Law Deskbook includes the latest case law and discusses recent developments that have significantly impacted the construction industry. Also includes time-saving fillable/ editable forms, contracts and letters, as well as sample ConsensusDocs and AIA Forms!
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