



# CONSTRUCTION **SUPERCONFERENCE**

THE PREEMINENT CONSTRUCTION INDUSTRY EVENT

## **Current Trends Shaping the Next Generation of Construction Industry Business**

Gain knowledge and exchange ideas  
with an unparalleled assemblage of  
construction professionals.

**SAN FRANCISCO DECEMBER 7-8, 2006**

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# CONSTRUCTION**SUPERCONFERENCE**

From the Conference Organizing Chairs:

For more than 20 years, the Construction Superconference has been the single annual conference that has attracted the industry's most prominent lawyers, consultants, and many other industry representatives because of the variety and depth of the program. It has been the single annual "pilgrimage" for those prominent people to enjoy the camaraderie and opportunities to share their common thread—dedication to the advancement of the construction industry and construction law.

The new ownership of the Superconference asked us to serve as Co-Chairs, together with an excellent Advisory Board, to ensure that the 2006 Superconference would be the best ever. We are proud to say that this 2006 Superconference is indeed the best ever—with world-class speakers, a refreshed curriculum, format modifications and other changes that will make the experience of attending this Superconference a special experience indeed.

We invite you to join us in San Francisco in December with hundreds of your colleagues to enjoy the 2006 Construction Superconference.

Sincerely,

**Robert S. Peckar, Esq.**  
Founding Partner  
Peckar & Abramson, PC  
New York

**Bruce W. Ficken, Esq.**  
Partner  
Pepper Hamilton, LLP  
Philadelphia

## **Advisory Board Members**

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New York

# **Don't wait for a crisis to prepare yourself for challenging times. Attend the 21st Annual Construction Superconference and prepare now!**

Join us for two information-packed days of learning and networking with the construction industry's leading practitioners, who will present a broad spectrum of topics, issues, and challenges reflective of current trends affecting future complex construction projects. Session organizers will present lively, fast-paced, in-depth discussions; develop leading-edge situations and, whenever possible, make targeted recommendations. Many networking opportunities will foster the exchange of ideas and connections with others who are knowledgeable about the environment in which you operate and who can connect you with the information you need to make good, sound business decisions.

Bring your entire team. More than 40 educational programs are scheduled, allowing the choice of curriculum to best fit goals and schedules to achieve best value.

We don't pretend to know what the future holds, but we do believe that we can prepare you for future challenges (and resulting opportunities) that are sure to present themselves.

## **Who Should Attend:**

**Owners**

**Developers**

**General Counsel**

**Project Sponsors**

**Contractors**

**Attorneys**

**Financial Lenders**

**Engineers**

**Consultants**

**Government Authorities**

**Architects**



# Keynote Discussions

## Networking Opportunities

Wednesday, December 6, 2006  
6:00 p.m. – 7:30 p.m.



### California Wine Country Reception

Location: French Parlor Room, Palace Hotel

Kick off the Construction Superconference at Interface Consulting's Fourth Annual California Wine Country Reception. Enjoy select California wines and hors d'oeuvres while you mingle with friends and network with colleagues. We look forward to seeing you there! Sponsored by Interface Consulting International, Inc.

Reception Contact: Joanne Janssen, Interface Consulting International, Inc. Phone: 800-626-0054; e-mail: [jkjanssen@interface-consulting.com](mailto:jkjanssen@interface-consulting.com)

Thursday, December 7, 2006  
6:00 p.m. – 8:00 p.m.

### Cocktail Reception

Combine your conference networking with a fun social setting. This is a prime opportunity to meet old friends, make new friends, and enjoy great food and drink. Sponsored by Peckar & Abramson, PC.

Thursday December 7, 2006  
8:00 a.m. – 9:00 a.m.

### Opening Keynote Address—General Session P1

Sponsored by Pepper Hamilton, LLP

#### Meeting the World's Energy Security Challenge

Spencer Abraham, Former U.S. Secretary of Energy



Spencer Abraham was sworn in as the tenth and longest-serving Secretary of Energy in United States history on January 20, 2001. He is currently the Chairman and CEO of The Abraham Group, an international strategic consulting firm that uses his extensive public-service experience to provide strategic advice and hands-on assistance for clients seeking opportunities or solutions on the United States and global market. The Abraham Group has a strategic alliance with the law firm Pepper Hamilton, LLP.

At the podium, Abraham brings his insight of nearly two decades at the highest levels of domestic and international policy and politics. He explains current geopolitical situations and shares his recommendations for the future. As energy use continues to spiral upward, the search for new sources of energy becomes more and more important to both the public and private sectors. These emerging markets will be of great importance to domestic and international business over the coming decade.

Thursday December 7, 2006  
12:05 p.m. – 1:45 p.m.

### Luncheon Program—General Session P2

#### The Changing Face of Organized Labor in the Construction Industry

Organized labor, which has long dominated many major construction industry markets, is going through dramatic changes. Some markets have gone from major union domination to open shop, and others have seen an erosion of that domination. Yet, some major markets continue to be strongholds of union strength. In the middle of the union market scene is the dramatic exit of certain unions from the AFL-CIO and their announced intention to create "vertically integrated unions" to compete with the nonunion segment. National control of the full spectrum of union trades from Washington, DC, is now challenged and jurisdictional issues are on the horizon.

In this session, key industry leaders will engage in an exciting discussion about these changes and what they portend for the industry and American society, including specific discussion of how union demographics have changed, the nature of labor-management partnership initiatives across the country, and the future of the construction industry labor movement.

#### Session Chair:

**Robert S. Peckar, Esq.**  
Founding Partner  
Peckar & Abramson, PC  
New York

#### Panelists:

**Louis J. Coletti**  
President and CEO  
Building Trades Employers Association  
of New York

**Edward Malloy**  
President  
New York Building Construction  
Trades Council

**Friday, December 8**  
**7:00 a.m. – 8:00 a.m.**

**General Counsel Only Breakfast  
Session S1**

**Cracked Foundation: Is  
Construction Fraud Increasing?**  
Sponsored by Ernst & Young LLP

**Friday December 8, 2006**  
**12:15 p.m. – 2:00 p.m.**

**Luncheon Closing Address—  
General Session P3**  
Session hosted by Exponent

**Catastrophe at the Site: How to  
Survive and Recover  
A Live Simulation**

A major construction project is nearing completion, on schedule and on budget. The project will be the cornerstone of urban renewal for Star-Crossed City. Suddenly, a major catastrophe strikes. There is a partial collapse, there are fatalities, major portions of the facility are destroyed, and adjacent businesses are affected. And to top it off, it's an election year!

A multidisciplinary panel will provide dramatic "live" coverage of this complex situation in an entertaining format. The participants will include a public relations manager, a general contractor, an attorney, a structural engineer, and a construction consultant, all of whom are highly experienced with similar situations. As events unfold in "real time", they will explain best practices for effectively managing the crisis, and they will dramatize the worst nightmares that could otherwise develop.

**Session Chair:**

**Steven Charney, Esq.**  
Peckar & Abramson, PC  
New York

**Panelists:**

**Merrie Spaeth**  
Spaeth Communications  
Dallas

**David B. Peraza, PE**  
Exponent  
New York

**Robert Freas**  
Exponent  
Alexandria, VA

**Edward V. McNeill**  
Senior Vice-President, Operations  
Turner Construction Company  
Orlando, FL

**Sponsored By:**

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Rimkus Consulting Group, Inc.  
Seyfarth Shaw LLP  
Smith Currie & Hancock, LLP  
Smith Pachter McWhorter, PLC  
Strategy, LLC  
Thelen Reid & Priest, LLP  
Thornton Tomasetti, Inc.  
Trauner Consulting Services, Inc.  
URS Corporation  
Vendome Group, LLC  
Veritas Advisory Group, Inc.  
Wolters Kluwer Law & Business  
Warner Construction Consultants, Inc.  
Watt, Tieder, Hoffar & Fitzgerald, LLP  
Winston & Strawn, LLP

**Developed in Cooperation With:**

Abraham Group, The  
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Amey Strategic Developments  
Andrews Myers Coulter & Cohen, PC  
Brian G. Dooley & Associates, Inc.  
Building Trades Employers Association  
of New York  
Captive Counsel Law Group, Inc., The  
Catholic Healthcare West  
Center for Integrated Facility  
Management (CIFE)  
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Construction Documentation Services  
Department for International  
Development Partnerships, UK  
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HDH Construction Consultants, Inc.  
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John A. Martin & Associates  
Karagozian & Case  
KBR, Inc.  
Kellogg Brown & Root, Inc.  
Kiewit Construction Company  
Lee and Associates  
Lemley & Associates, Inc.  
Lexington Insurance Company  
Los Angeles Metropolitan  
Transportation Authority  
McCally Group, LLC  
McCarthy Building Companies  
Middleberg Riddle & Gianna  
New York Building Construction  
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Riedinger Consulting  
Rolls-Royce Energy Systems, Inc.  
Rubino and McGeehin  
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Sempra Global  
Shaw Environmental & Infrastructure  
Shaw Stone & Webster, Inc.  
Sills Cummis Epstein & Gross, PC  
Skidmore, Owings & Merrill, LLP  
Spaeth Communications  
Sterling Construction, Inc.  
Sundt Construction, Inc.  
TIC—The Industrial Company  
Turner Construction Company  
U.S. Green Building Council  
Venable, LLP  
Washington Group International  
WWCOT Architecture  
Zetlin & De Chiara, LLP

# Schedule at a Glance

Thursday, December 7, 2006

## Wednesday, December 6, 2006

6:00 p.m. – 7:30 p.m.

**California Wine Country Reception**  
French Parlor Room, Palace Hotel  
Sponsored by: Interface Consulting International, Inc.

## Thursday December 7, 2006

8:00 a.m. – 9:00 a.m.

**Opening Keynote Address—General Session P1**  
Sponsored by Pepper Hamilton, LLP  
**Meeting the World's Energy Security Challenge**  
Spencer Abraham, Former U.S. Secretary of Energy

9:15 a.m. – 10:30 a.m.

**Session E1**  
**Lessons learned from International PPPs and Their Implications for the United States Market**  
**Session Chair:** Brian Norton, Managing Director, Navigant Consulting, Inc., London, UK. **Panelists:** John Pilkington, Managing Director, Amey Strategic Developments, London, UK; Edward Farquharson, Assistant Director, Department for International Development Partnerships, UK, London, UK; A. Wayne Lalle, Jr., Partner, Venable, LLP, Vienna, VA

**Session E2**  
**Back to the Future: Forensic Scheduling and the As-Built Delay Analysis**  
**Session Chair:** John C. Livengood, AIA, PSP, Esq., Senior Vice-President, Warner Construction Consultants, Inc., Rockville, MD. **Panelists:** Peter A. "Tony" Warner, President and CEO, Warner Construction Consultants, Inc., Rockville, MD; Katherine Gurun, Jams Arbitration, New York; John R. Heisse, II, Esq., Thelen Reid & Priest, San Francisco

**Session E3**  
**Allocating Design Risk on Major Infrastructure Projects: Is Design-Build the Answer?**  
**Session Chair:** Joseph A. Castellano, PE, Senior Vice-President, Construction Consulting Practice, Marsh, New York. **Panelists:** Mark Sgalata, Esq., Partner, Watt, Tieder, Hoffer & Fitzgerald, LLP, McLean, VA; Christopher J. Brasco, Esq., Partner, Watt, Tieder, Hoffer & Fitzgerald, LLP, McLean, VA; Robert Curtis, Vice-President, Construction Consulting Practice, Marsh, Washington, DC; Stephen G. Price, PE, Granite Construction Northeast, Inc., Mount Vernon, NY; Kevin T. Colby, Esq., Vice-President, Regional Managing Attorney, Washington Group International, Princeton, NJ

**Session E4**  
**A Day in the Life of a 3-D Virtual Model: Risk Allocation for Design and Construction**  
**Session Chair:** Rick Lowe, Duane Morris, LLP. **Panelists:** David Sandlin, GE Johnson; Jan Reinhardt, Program Manager, Turner Construction Company; Jonathan Widney, Navisworks; Ron Ruma, Duane Morris, LLP

**Session E5**  
**Before the Concrete Sets: Mid-Project Intervention**  
**Session Chair:** Donald R. Boyken, CEO, Boyken International, Inc., Atlanta. **Panelists:** C.G. "Sonny" Jester, Esq., Vice-President, Dispute Resolution and Expert Services, Boyken International, Inc., Atlanta; Bill Andrews, Partner, Andrews Myers Coulter & Cohen, PC, Houston

## Thursday, December 7, 2006

10:45 a.m. – 12:00 a.m.

**Session E6**  
**A View from the Federal Bench: Perspectives on Construction Disputes in the Year 2006 and a Review of Recent Trends and the New Rules That Will Impact Construction Disputes in the Federal Courts**  
**Session Chair:** Michael X. McBride, Esq., Partner, Construction Department Co-Chair, Connell Foley, LLP. **Panelists:** Hon. Ronald J. Hedges, USMJ, United States District Court for the District of New Jersey; Hon. James M. Rosenbaum, USDJ, Chief Judge, United States District Court for the District of Minnesota; Mark Fleder, Esq., Senior Partner, Construction Department Co-Chair, Connell Foley, LLP; Tricia B. O'Reilly, Partner, Connell Foley, LLP

**Session E7**  
**Public-Private Partnerships and Major Infrastructure Construction**  
**Session Chair:** Mark E. Hanson, Partner, Smith Pachter McWhorter, PLC, Vienna, VA. **Panelists:** R. Randall Nye, Vice-President and General Counsel, Sundt Construction, Inc., Tempe, AZ; Dorothy E. Terrell, Partner, Smith Pachter McWhorter, PLC, Vienna, VA

**Session E8**  
**Time Impact Analysis for Complex Projects**  
**This session developed by MDCSystems®. For more information, visit [www.constructionsuperconference.com](http://www.constructionsuperconference.com).**

**Session E9**  
**E-Discovery in Today's Construction Project**  
**Session Chair:** Randall L. Erickson, Irvine Office Administrative Partner, Firm Construction Co-Chair, Crowell & Moring LLP, Irvine, CA. **Panelist:** Andrew H. Marks, Partner, Crowell & Moring LLP, Washington, DC

**Session E10**  
**Project Cost Audits—How to Conduct Effective Project Cost Audits**  
**Session Chairs:** Randall Steichen, Esq., Dorsey & Whitney, LLP, Seattle; Paul Ficca, Senior Managing Director, FTI Consulting, Inc., Seattle. **Panelists:** David Jarrett, Director of Design and Construction, Catholic Healthcare West; Michael J. Piechoski, Senior Vice-President, Chief Financial Officer, Kiewit Corporation, Omaha, NE

12:05 p.m. – 1:45 p.m.

**Luncheon Program—General Session P2**  
**The Changing Face of Organized Labor in the Construction Industry**  
**Session Chair:** Robert S. Peckar, Esq., Founding Partner, Peckar & Abramson, PC, New York. **Panelists:** Louis J. Coletti, President and CEO, Building Trades Employers Association of New York; Edward Malloy, President, New York Building Construction Trades Council

2:00 p.m. – 3:15 p.m.

**Session E11**  
**Strange Bedfellows: How to Participate in a Public-Private Partnership Without Losing Your Shirt**  
**Session Chair:** Paul A. Varela, Partner, Watt, Tieder, Hoffer & Fitzgerald, LLP, McLean, VA. **Panelists:** Jody K. Debs, Corporate Counsel, CH2M HILL, Englewood, CO; David A. Follett, Senior Vice-President, Commercial and Contracts, AMEC Americas, Washington, DC; John D. Onnembo, Jr., Senior Vice-President and General Counsel, AMEC Construction Management, Inc., Fort Lee, NJ; Christopher J. Brasco, Partner, Watt, Tieder, Hoffer & Fitzgerald, LLP, McLean, VA

**Session E12**  
**Labor Availability—Contractor Risk, Force Majeure, or Changed Condition?**  
**Session Chair:** Peter M. D'Ambrosio, Winston & Strawn, LLP, Washington, DC. **Panelists:** Colin Reid, Vice-President and General Counsel, TIC—The Industrial Company, Steamboat Springs, CO; Donald G. Holman, President, HDH Construction Consultants, Inc., Annapolis, MD; Norman C. Spence, Senior Vice-President, Shaw Stone & Webster, Inc., Baton Rouge, LA; Thomas N. Sacco, Vice President—Commercial, Rolls-Royce Energy Systems, Inc., Mount Vernon, OH; Eric J. Marcotte, Winston & Strawn, LLP, Washington, DC; George J. Pierson, Sr. Vice-President and General Counsel, Parson Brinckerhoff, Inc., New York

**Session E13**  
**Survive the Next Disaster—Lessons Learned from 4 Construction Perspectives**  
**Session Chair:** Frank G. Adams, PE, President, Interface Consulting International, Inc., Houston. **Panelists:** Philip D. Barnard, PE, Senior Vice-President, Interface Consulting International, Inc., Houston; Dominic J. Gianna, Esq., Senior Partner, Middleberg Riddle & Gianna, New Orleans; Edwin H.C. Goldman, Director of Upstream Oil & Gas Production Facilities, KBR, Inc., Houston; Erbin B. Keith, Vice-President, Sempra Global, San Diego

**Session E14**  
**Cumulative Disruption: The Toughest Claim to Prove**  
**Session Chair:** Evans M. Barba. **Panelist:** Richard Lowe, Duane Morris, LLP, Philadelphia, PA

**Session E15**  
**It's About Time: The Project Schedule—Management Tool or Ground Rules for the Blame Game?**  
**Session Chair:** Lawrence C. Melton, Esq., Nexsen Pruet Adams Kleemeier, LLC, Columbia, SC. **Panelists:** Steven D. Hedges, Esq., Nexsen Pruet Adams Kleemeier, LLC, Greensboro, NC; David E. Pearson, President, Pearson Management Group, Inc., Montgomery, AL; Robert P. Hammell, FAIA, Skidmore, Owings & Merrill, LLP, Washington, DC; John V. Snyder, Esq., Senior Counsel, Claims Manager, Bechtel Corporation, Frederick, MD

3:30 p.m. – 4:45 p.m.

**Session E16**  
**Common Disputes on Light Rail Transit Projects and How to Resolve Them**  
**Session Chair:** Brian Manning, Vice-President, Sterling Construction, Inc., Houston. **Panelists:** Dr. Patricia D. Galloway, PE, CEO, The Nielsen-Wurster Group, Inc., Seattle; Reza Nikain, President, The Nielsen-Wurster Group, Inc., Princeton, NJ; Sam E. Baker, Esq., Oles Morrison Rinker & Baker, LLP, Seattle; Philip R. White, Chair, Construction Law Practice Group, Sills Cummis Epstein & Gross, PC, Newark, NJ

**Session E17**  
**Dispute Resolution in the Global Economy: The Rise of International Commercial and Investment Treaty Arbitrations**  
**Session Chair:** John R. Dingess, Esq., Partner, Kirkpatrick & Lockhart Nicholson Graham LLP, Pittsburgh. **Panelists:** Thomas A. Thompson, Director Business Risk Assessment and Control, Kellogg Brown & Root, Inc., Houston; Ronald J. (R.J.) Chleboski, Jr., Esq., Partner, Kirkpatrick & Lockhart Nicholson Graham LLP, Pittsburgh; Brian R. Davidson, Esq., Partner, Kirkpatrick & Lockhart Nicholson Graham LLP, Pittsburgh

**Session E18**  
**Got Coverage? Insurance Issues That Will Shape the Next Generation of the Construction Industry**  
**Session Chair:** Thomas J. Driscoll, Senior Vice-President, URS Corporation, Denver. **Panelists:** David J. Hatem, Esq., Donovan Hatem, LLP, Boston; Bob Rogers, Lexington Insurance Company, Boston

**Session E19**  
**Total Float—Longest Path? Mastering the New Scheduling Software Technology**  
**Session Chair:** Michael F. D'Onofrio, PE, President, Capital Project Management, Inc., Blue Bell, PA. **Panelists:** Mark Boe, PE, Vice-President, Capital Project Management, Inc., Blue Bell, PA; Jeffrey R. Cruz, Esq., Partner, Thelen Reid & Priest, LLP, New York; Jon M. Wickwire, Esq., Shareholder, Akerman Senterfitt, Vienna, VA

## Session E20

### The Construction Project and Claims: Emerging Methods and Technology (Digital Representation, 3-D/4-D Modeling), and the Daubert Challenge

**Session Chair:** Robert C. Gardner, Jr., Vice-President – Government Contract & Claim Advisory Services, Rimkus Consulting Group, Inc., Houston. **Panelists:** Howard Marcus, President, Construction Documentation Services; Prof. Martin A. Fischer, PhD, Center for Integrated Facility Management (CIFE), Stanford, CA; Jonathan J. Dunn, Esq., Sedgwick, Detert, Moran & Arnold, LLP, Irvine, CA; Ken L. Homfeld, Vice-President, Const/Prop/Fire, Rimkus Consulting Group, Inc., Houston

4:45 p.m. – 6:00 p.m.

## Session E21

### Liability Issues Resulting From the Use of New Technologies

**Session Chair:** Dr. Gui Ponce de Leon, PE, Managing Principal, PMA Consultants, LLC, Ann Arbor, MI. **Panelists:** Robert C. Chambers, Esq., Partner, Smith Currie & Hancock, LLP, Atlanta; Leah A. Rochwarg, Esq., Seyfarth Shaw, LLP, Boston; Dennis R. Shelden, PhD, Chief Technology Officer, Gehry Technologies, Los Angeles; David J. Hatem, Esq., Donovan Hatem, LLP, Boston

## Session E22

### New Light through Old Windows—Owners and Contractors Working Together to Minimize and Resolve Labor Inefficiency Claims

**Panelists:** Brian G. Corgan, Partner, Kilpatrick Stockton, LLP, Atlanta; William E. Dorris, Partner, Kilpatrick Stockton, LLP, Atlanta; William D. Guernier, Managing Director, Navigant Consulting, Inc., New York; Bob McCally, Principal, McCally Group, LLC, Lewisville, TX

## Session E23

### Becoming Your Own Insurance Company: An Examination of Wrap-Up Insurance Programs Versus Captive Insurance Programs for Construction and Design Risks

**Session Chair:** Bryan C. Jackson, Esq., Partner, Allen Matkins, Los Angeles. **Panelists:** Jeffrey C. Moffat, Esq., Principal, The Captive Counsel Law Group, Inc., Pasadena, CA; Brian Dooley, CPA, Brian G. Dooley & Associates, Inc., Newport Beach, CA; Robert “Mike” J. Cathcart, Esq., Partner, Allen Matkins, Los Angeles; Kenneth W. Curtis, Esq., Partner, Allen Matkins, Irvine, CA

## Session E24

### Managing Catastrophic Project Interruptions

**Session Chair:** Tom Peters, PE, Senior Claims Analyst, PinnacleOne, Los Angeles. **Panelists:** Joe Seibold, PD, Executive Vice-President, PinnacleOne, Los Angeles; Jeff DeFeo, Esq., Director of Claims Services, PinnacleOne, Laguna Hills, CA; Kenneth C. Gibbs, Gibbs, Giden, Locher & Turner, LLP, Los Angeles

## Session E25

### Construction Issues in Building Product Class Actions

**Session Chair:** Stephen Zovickian, Partner, Bingham McCutchen, LLP, San Francisco. **Panelists:** Michael I. Begert, Partner, Bingham McCutchen, LLP, Tokyo; Rachel De Guzman, Managing Architect, Exponent, Menlo Park, CA; Michael J. Sullivan, PhD, Cofounder, The FSC Group, San Francisco; Craig van Rooyen, Partner, Bingham McCutchen, LLP, San Francisco

6:00 p.m. – 8:00 p.m.

## Cocktail Reception

Sponsored by Peckar & Abramson, PC

# Friday, December 8, 2006

7:00 a.m. – 8:00 a.m.

## Continental Breakfast

## General Counsel Only Breakfast

## Session S1

### Cracked Foundation: Is Construction Fraud Increasing?

Sponsored by Ernst & Young LLP

# Friday, December 8, 2006

8:15 a.m. – 9:30 a.m.

## Session E26

This session developed by Deloitte & Touche, LLP. For more information, visit [www.constructionsuperconference.com](http://www.constructionsuperconference.com).

## Session E27

### Top Ten Contractual Life Preservers for Owners, Contractors, and Designers

**Session Chair:** Robert L. Meyers, III, Jones Day, Dallas. **Panelists:** Craig Storti, Vice-President—Litigation and Claims, Washington Group International, Boise, ID; Daniel D. McMillan, Jones Day, Los Angeles; Patrick Appel, Senior Counsel, ChevronTexaco Overseas Petroleum, San Ramon, CA; Charles M. Safer, General Counsel, Los Angeles Metropolitan Transportation Authority, Los Angeles; Erich R. Luschei, Jones Day, Los Angeles

## Session E28

### Natural Gas Pipeline Construction: How Much, How Soon, How?

This session developed by McCarter English, LLP. For more information, visit [www.constructionsuperconference.com](http://www.constructionsuperconference.com).

## Session E29

### Successful ADR and Impact Analysis Tools—Settling \$500 Million Claims Without Litigation

**Panelists:** Patrick McGeehin, Rubino and McGeehin; Richard Martone, PMA Consultants; John Testa, Kiewit Construction Company; Robert M. Fitzgerald, Watt, Tieder, Hoffar and Fitzgerald, LLP; McClean, VA; Kathy Barnes, Watt, Tieder, Hoffar and Fitzgerald, LLP, McClean, VA; Judge Paul Williams, ASBCA

## Session E30

### What's Ahead in the Construction Industry? The Shape of Things to Come: Challenges, Risks, and Opportunities.

**Session Chair:** Frank A. McDonough, PE, Chairman, McDonough Bolyard Peck Construction Engineering. **Panelists:** Charles E. Bolyard, PSP, President and CEO, McDonough Bolyard Peck Construction Engineering; Mark S. McKain, Esq., Principal Counsel and Manager of Claims, Bechtel Corporation, Steven J. Weber, Esq., Partner, Construction and Design Industry, Holland & Knight, LLP

9:45 a.m. – 11:00 a.m.

## Session E31

### Much Ado About Daubert?

**Session Chair:** J. Steve Holloway, Holloway Consulting Group, LLC, Lakewood, CO. **Panelists:** Jon M. Wickwire, Esq., Wickwire Gavin, PC, Vienna, VA; Neal J. Sweeney, Esq., Kilpatrick Stockton, LLP, Atlanta; Randy R. Edwards, Esq., Kilpatrick Stockton, LLP, Atlanta; Byrum Lee, Jr., Esq., Lee and Associates, Denver; Constance Riedinger, PE, Riedinger Consulting, Sausalito, CA

## Session E32

### Green Buildings/LEED: New Opportunities and Challenges For the Construction Industry

**Session Chair:** Leah A. Rochwarg, Esq., Partner, Seyfarth Shaw LLP, Boston. **Panelists:** Roderick F. Wille, Senior Vice-President and Manager of Sustainable Construction, Turner Construction Company, Sacramento, CA; James Fillerup, Senior Architect and Design Quality Control Manager, Shaw Environmental & Infrastructure, Midvale, UT; Brendan Owens, LEED AP, PE, Director, LEED Technical Development, U.S. Green Building Council, Washington, DC

## Session E33

### Condominiums, Condo-Hotels, and Timeshare: Unusual Construction Issues In Multi-Owner Projects.

**Panelists:** Dennis J. Powers, Partner, DLA Piper Rudnick Gray Cary LLP, Chicago; Joshua L. Glazov, Partner, DLA Piper Rudnick Gray Cary LLP, Chicago

## Session E34

### Three Mile Island Revisited: Blinded by Reality: How Fail Safe Systems Fail and How the Nuclear Industry is Responding

**Session Chair:** Bruce W. Ficken, Esq., Partner, Pepper Hamilton, LLP, Philadelphia. **Panelists:** Richard W. Foltz, Jr., Esq., Partner, Pepper Hamilton, LLP, Philadelphia; Robert D. Coovert, Director of Human Performance, Exelon Nuclear, Warrenton, IL

## Session E35

### Risk Management and Dispute Resolution: The Latin American Experience

**Session Chair:** Jeffrey G. Gilmore, Shareholder, Akerman Senterfitt Wickwire Gavin, Tysons Corner, VA. **Panelists:** Luis M. O'Naghten, Shareholder, Akerman Senterfitt, Miami; John L. Shoemaker, Senior Counsel, El Paso Corporation, Houston; Owen J. Shean, Shareholder, Akerman Senterfitt Wickwire Gavin, Tysons Corner, VA; Michael C. Loulakis, Shareholder, Akerman Senterfitt Wickwire Gavin, Tysons Corner, VA

11:00 a.m. – 12:15 p.m.

## Session E36

### Have Designers Stopped Designing?

**Session Chair:** James K. Bidgood, Jr., Esq., Smith, Currie & Hancock, LLP, Atlanta. **Panelists:** Jack K. Lemley, CEO, Lemley & Associates, Inc., Boise, ID; Chester A. Widom, FAIA, WWCOT Architecture, Santa Monica, CA; James A. Staskiel, Esq., Senior Vice-President/General Counsel and Secretary, McCarthy Building Companies, St. Louis; Laurence “Larry” Hampton, PE, Senior Principal, PMA Consultants, LLC, Phoenix

## Session E37

### Building Information Modeling—Fact, Fiction, or Fantasy?

**Session Chair:** Barbara Werther, Partner (Construction and Government Contracts), Thelen Reid & Priest, LLP, Washington, DC. **Panelists:** To include representatives from (subject to change): HOK, Thornton Tomasetti, GSA, Exponent, The Duggan Rhodes Group, John A. Martin & Associates

## Session E38

### Defending and Prosecuting Construction Claims: From Defending “Qui Tam” Actions to Recovery of Affirmative Claims on Federal Projects

**Session Chairs:** Kenneth L. Sable, Partner, Post & Schell, PC, Harrisburg, PA; Gary A. Wilson, Partner, Post & Schell, PC, Philadelphia. **Panelists:** John W. Dornberger, Partner, Post & Schell, PC, Harrisburg, PA; Thomas L. Isenberg, Jr., Partner, Post & Schell, PC, Harrisburg, PA; Barbara A. Zemlock, Partner, Post & Schell, PC, Harrisburg, PA

## Session E39

### Design Considerations for a Post 9/11 World

**Session Chair:** Daniel A. Cuoco, PE, President, Thornton Tomasetti, Inc., New York. **Panelists:** Emmanouel Velivasakis, PE, Managing Principal, Thornton Tomasetti, Inc., New York; John Abruzzo, PE, Principal, Thornton Tomasetti, Inc., New York; Gary Panariello, PhD, PE, Principal, Thornton Tomasetti, Inc., New York; Gerald “Jerry” Hallissy, FAIA, Vice-President, Fibwrap Composite Technologies, Calverton, NY; John Crawford, PE, President, Karagozian & Case, Burbank, CA; Raymond T. Mellon, Esq., Partner, Zetlin & De Chiara, LLP, New York

## Session E40

### The Future of K-12 Construction: Alternatives to Design-Bid-Build

**Session Chair:** P. Randolph Finch, Jr., Esq., Partner, Marks, Golia & Finch, LLP, San Diego. **Panelists:** Eric G. Stenman, General Counsel, Douglas E. Barnhart, Inc., San Diego; Jeffrey B. Baird, Partner, Marks, Golia & Finch, LLP, San Diego; Jason R. Thornton, Partner, Marks, Golia & Finch, LLP, San Diego

12:15 p.m. – 2:00 p.m.

## Luncheon Closing Address—General Session P3

### Session hosted by Exponent Catastrophe at the Site: How to Survive and Recover A Live Simulation

**Session Chair:** Steven Charney, Esq., Peckar & Abramson, PC, New York. **Panelists:** Merrie Spaeth, Spaeth Communications, Dallas; David B. Peraza, PE, Exponent, New York; Robert Freas, Exponent, Alexandria, VA; Edward V. McNeill, Senior Vice-President, Operations, Turner Construction Company, Orlando, FL

# Wednesday/Thursday

## Wednesday December 6

6:00 p.m. – 7:30 p.m.

### California Wine Country Reception French Parlor Room, Palace Hotel

Sponsored by Interface Consulting International, Inc.

Kick off the Construction Superconference at Interface Consulting's Fourth Annual California Wine Country Reception. Enjoy select California wines and hors d'oeuvres while you mingle with friends and network with colleagues. We look forward to seeing you there!

## Thursday December 7

8:00 a.m. – 9:00 a.m.

### Opening Keynote Address—General Session P1

Sponsored by Pepper Hamilton, LLP

### Meeting the World's Energy Security Challenge

Spencer Abraham, Former U.S. Secretary of Energy

Spencer Abraham was sworn in as the tenth and longest-serving Secretary of Energy in United States history on January 20, 2001. Prior to being Secretary of Energy, Abraham served as a highly productive and effective U.S. Senator from Michigan for six years, authoring 22 pieces of legislation signed into law—unprecedented for a freshman senator. He is currently the Chairman and CEO of The Abraham Group, an international strategic consulting firm that uses his extensive public-service experience to provide strategic advice and hands-on assistance for clients seeking opportunities or solutions on the United States and global market. The Abraham Group has a strategic alliance with the law firm Pepper Hamilton, LLP.

At the podium, Abraham brings his insight of nearly two decades at the highest levels of domestic and international policy and politics. He explains current geopolitical situations and shares his

recommendations for the future. As energy use continues to spiral upward, the search for new sources of energy becomes more and more important to both the public and private sectors. These emerging markets will be of great importance to domestic and international business over the coming decade.

9:15 a.m. – 10:30 a.m.

### Session E1 Lessons learned from International PPPs and Their Implications for the United States Market

Public Private Partnerships (PPPs) have been used to deliver public infrastructure in projects from hospitals and schools to helicopter simulators and subway systems. The U.K. has been using PPPs for the last 15 years and many other countries have adopted the same principles. They represent an increasing and very significant proportion of public sector infrastructure investment, which in turn means that they represent a very significant construction market. However, it has not always been an easy ride and some contractors have had their fingers burned.

The panel will discuss the experience gained from international PPPs, with emphasis on the U.K. market, as it is relatively mature and many lessons that have been learned the hard way. They will identify the key implications for the U.S. market, showing the sectors and projects that will work, the risks that to be taken on, and the profits from participating in this form of procurement.

#### Session Chair:

**Brian Norton**

Managing Director  
Navigant Consulting, Inc.  
London, UK

#### Panelists:

**John Pilkington**

Managing Director  
Amey Strategic Developments  
London, UK

**Edward Farquharson**

Assistant Director  
Department for International  
Development Partnerships, UK  
London, UK

**A. Wayne Lalle, Jr.**

Partner  
Venable, LLP  
Vienna, VA

### Session E2 Back to the Future: Forensic Scheduling and the As-Built Delay Analysis

Flux capacitor or hourglass? Which works better? The principle schools of thought concerning forensic schedule analysis methodologies have two very different views on how to identify the as-built critical path and identify delay-causing events. This session will examine two schools of thought: (1) the prospective methodologies that model the events on the project through computer simulations, represented by Time Impact Analysis (TIA) methodology, and (2) the retrospective methodologies that observe the actual events, represented by the As-Planned versus the As-Built methodology. The panel will examine whether, after nearly two decades of the ascendancy of TIA's, it is time for the future of forensic schedule delay analysis to return to the past—the As-Planned versus the As-Built methodology.

#### Session Chair:

**John C. Livengood, AIA, PSP, Esq.**

Senior Vice-President  
Warner Construction Consultants, Inc.  
Rockville, MD

#### Panelists:

**Peter A. "Tony" Warner**

President and CEO  
Warner Construction Consultants, Inc.  
Rockville, MD

**Katherine Gurun**

Jams Arbitration  
New York

**John R. Heisse, II, Esq.**

Thelen Reid & Priest, LLP  
San Francisco



**Session E3**

**Allocating Design Risk on Major Infrastructure Projects: Is Design-Build the Answer?**

There is a large-scale growth in the use of design-build project delivery for infrastructure projects throughout the United States. Risk allocation is a crucial aspect of major infrastructure projects. Common practices exist with regard to selecting a delivery system, contracting, evaluating proposals, determining the level of design in the request for proposals, using consultants, establishing trust, identifying key players, and permitting and allocating risk.

When these risks are not adequately considered, cost overruns and delays are often encountered with the public unfortunately incurring the costs. A design-build project allocates design risk (quality) and construction risk (schedule and cost) to the design-builder and the owner. The design-builder is responsible for adequacy and completeness of the design and subsequently the entire project; the owner is responsible for adequacy of the design criteria. The primary focus of this session will be whether this allocation of risk in a design-build scenario adequately addresses cost overruns and delays.

*Session Chair:*

**Joseph A. Castellano, PE**  
Senior Vice-President  
Construction Consulting Practice  
Marsh  
New York

*Panelists:*

**Mark Sgalata, Esq.**  
Partner  
Watt, Tieder, Hoffar & Fitzgerald, LLP  
McLean, VA

**Christopher J. Brasco, Esq.**  
Partner  
Watt, Tieder, Hoffar & Fitzgerald, LLP  
McLean, VA

**Robert Curtis**  
Vice-President  
Construction Consulting Practice  
Marsh  
Washington, DC

**Stephen G. Price, PE**  
Granite Construction Northeast, Inc.  
Mount Vernon, NY

**Kevin T. Colby, Esq.**  
Vice-President, Regional Managing Attorney  
Washington Group International  
Princeton, NJ

**Session E4**

**A Day in the Life of a 3-D Virtual Model: Risk Allocation for Design and Construction**

In this session, the panel will create a graphic that demonstrates “a day in the life of a 3-D virtual model” and will speak about the parties’ respective obligations at various stages of development. The panel will cover the pros and cons of who should maintain the model, standards for maintenance of the model, whether the model is reliable, who owns the model, and how to allocate the model’s risks.

*Session Chair:*

**Rick Lowe**  
Duane Morris, LLP

*Panelists:*

**David Sandlin**  
GE Johnson

**Jan Reinhardt**  
Program Manager  
Turner Construction Company

**Jonathan Widney**  
Navisworks

**Ron Ruma**  
Duane Morris, LLP

**Session E5**

**Before the Concrete Sets: Mid-Project Intervention**

This session will explore ways of identifying and resolving potential disputes on the construction project before they ripen into full-blown claims or litigation. The panelists will discuss early warning signs of threats to the project, and means of eliminating those threats, from the perspectives of the program manager and the construction attorney. Examples

of proactive project controls, good project communication, contract safeguards, and mid-project intervention will be offered, and ways to implement such measures suggested. The underlying theme will be maximizing the chances of successful completion while minimizing the costs of the dispute by immediately confronting the issue before it festers into a problem.

*Session Chair:*

**Donald R. Boyken**  
CEO  
Boyken International, Inc.  
Atlanta

*Panelists:*

**C.G. “Sonny” Jester, Esq.**  
Vice-President  
Dispute Resolution and Expert Services  
Boyken International, Inc.  
Atlanta

**Bill Andrews**  
Partner  
Andrews Myers Coulter & Cohen, PC  
Houston

**10:45 a.m. – 12:00 a.m.**

**Session E6**

**A View from the Federal Bench: Perspectives on Construction Disputes in the Year 2006 and a Review of Recent Trends and the New Rules That Will Impact Construction Disputes in the Federal Courts**

It is imperative that construction professionals be wary of the potential for litigation and be prepared for how complex construction disputes are litigated. Because litigation of disputes in the construction industry is often complex, involving multiple claims and parties and extensive discovery, gathering all relevant evidence in discovery is a Herculean task. Discovery is one of the most difficult aspects of complex litigation, but the rules of the game, particularly with electronic discovery (e-discovery), are changing.

The panel will examine recent trends in the federal bench’s approach to managing complex lawsuits, the importance of

e-discovery in federal litigation today, recent changes to the Federal Rules, and will provide critical insights into how a construction professional can oversee litigation and be adequately prepared for litigation before it even begins. The panel will explain how to navigate through complex federal construction litigation discovery; explain how to comply with e-discovery obligations, obtain critical e-discovery, and handle strict federal deadlines without losing valuable evidence or spending a fortune; and will expound on the processes and pitfalls associated with both traditional and e-discovery and provide critical suggestions for avoiding problematic mistakes.

**Session Chair:**

**Michael X. McBride, Esq.**  
Partner, Construction Department  
Co-Chair  
Connell Foley, LLP

**Panelists:**

**Hon. Ronald J. Hedges, USMJ**  
United States District Court for the  
District of New Jersey

**Hon. James M. Rosenbaum, USDJ**  
Chief Judge  
United States District Court for the  
District of Minnesota

**Mark Fleder, Esq.**  
Senior Partner  
Construction Department Co-Chair  
Connell Foley, LLP

**Tricia B. O'Reilly**  
Partner  
Connell Foley, LLP

**Session E7  
Public-Private Partnerships and  
Major Infrastructure Construction**

Economic development and construction of public buildings and infrastructure is no longer achieved through public funding alone. The financial involvement of the private sector has become an essential alternative to traditional funding that also provides public agencies with access to services and skills otherwise unavailable. Risk sharing and risk transference are keys

to some of the success of public-private partnerships, but a well-crafted agreement is just one of several critical elements. This panel of contractor representatives and construction counsel will define public-private partnerships and the forms the relationship can take, and will discuss planning and structuring the partnership and the project, the political component, the benefits and risks to both public and private sectors, and aspects of the delivery of public-private partnerships projects from concept through design, construction, and operation.

**Session Chair:**

**Mark E. Hanson**  
Partner  
Smith Pachter McWhorter, PLC  
Vienna, VA

**Panelists:**

**R. Randall Nye**  
Vice-President and General Counsel  
Sundt Construction, Inc.  
Tempe, AZ

**Dorothy E. Terrell**  
Partner  
Smith Pachter McWhorter, PLC  
Vienna, VA

**Session E8  
Time Impact Analysis for Complex  
Projects**  
This session developed by MDCSystems®.  
For more information, visit [www.constructionsuperconference.com](http://www.constructionsuperconference.com).

**Session E9  
E-Discovery in Today's Construction  
Project**

It is estimated that more than 95% of all new information being created today is in electronic form. All construction projects documents are kept in this form, as well. With this explosion in electronic communications, it is no longer possible to litigate a construction case, conduct an internal investigation, or respond to a government demand without collecting, reviewing, and managing a diverse array of electronic information. A number of significant changes to the Federal Rules of Civil Procedure dealing with

electronic discovery (e-discovery) issues have been proposed and are expected to be approved later this year. The courts are increasingly grappling with e-discovery issues and new decisions are being handed down weekly establishing new ground rules for e-discovery and defining the consequences of failing to adhere to them. Moreover, many government agencies and prosecutors already have become quite sophisticated in their pursuit and use of electronic information. Given these recent developments, it is incumbent on all involved in construction litigation to learn the proper handling of electronic information.

**Session Chair:**

**Randall L. Erickson**  
Irvine Office Administrative Partner  
Firm Construction Co-Chair  
Crowell & Moring LLP  
Irvine, CA

**Panelist:**

**Andrew H. Marks**  
Partner  
Crowell & Moring LLP  
Washington, DC

**Session E10  
Project Cost Audits—How to  
Conduct Effective Project Cost  
Audits**

This session will take an in-depth look at the most effective approach to project cost audits using a real-life case study. This session will show contractors how best to survive an audit and will show owners various methods for maximizing their recovery opportunities.

**Session Chairs:**

**Randall Steichen, Esq.**  
Dorsey & Whitney, LLP  
Seattle

**Paul Ficca**  
Senior Managing Director  
FTI Consulting, Inc.  
Seattle

**Panelist:**

**David Jarrett**  
Director of Design and Construction  
Catholic Healthcare West

**Michael J. Piechoski**  
Senior Vice-President, Chief Financial Officer  
Kiewit Corporation  
Omaha, NE

**12:05 p.m. – 1:45 p.m.**

**Luncheon Program—General Session P2**  
**The Changing Face of Organized Labor in the Construction Industry**

Organized labor, which has long dominated many major construction industry markets, is going through dramatic changes. Some markets have gone from major union domination to open shop, and others have seen an erosion of that domination. Yet, some major markets continue to be strongholds of union strength. In the middle of the union market scene is the dramatic exit of certain unions from the AFL-CIO and their announced intention to create “vertically integrated unions” to compete with the nonunion segment. National control of the full spectrum of union trades from Washington, DC, is now challenged and jurisdictional issues are on the horizon.

In this session, key industry leaders will engage in an exciting discussion about these changes and what they portend for the industry and American society, including specific discussion of how union demographics have changed, the nature of labor-management partnership initiatives across the country, and the future of the construction industry labor movement.

**Session Chair:**  
**Robert S. Peckar, Esq.**  
Founding Partner  
Peckar & Abramson, PC  
New York

**Panelists:**  
**Louis J. Coletti**  
President and CEO  
Building Trades Employers Association of New York

**Edward Malloy**  
President  
New York Building Construction Trades Council

**2:00 p.m. – 3:15 p.m.**

**Session E11**  
**Strange Bedfellows: How to Participate in a Public-Private Partnership Without Losing Your Shirt**

Recently, Public-Private Partnerships (PPPs) have gained significant momentum in the United States, with many states and cities adopting PPP-enabling legislation and a number of groundbreaking PPPs reaching financial close. From the \$1.8 billion Chicago Skyway concession to the plethora of megaproject PPPs from the Texas Department of Transportation, more state and local governments are using PPPs as a way to build infrastructure when more traditional revenue sources are inadequate or unavailable. As the number of such PPP transactions increases steadily and this emerging market evolves, engineering and construction firms, professionals, and lawyers are confronted with a dramatically different deal structure and risk-allocation model as compared to more traditional design-build or design-bid-build models. The panelists will discuss the complex structure associated with PPPs, the new players in this model, and the key risk-allocation issues that distinguish this model from other delivery methods.

**Session Chair:**  
**Paul A. Varela**  
Partner  
Watt, Tieder, Hoffar & Fitzgerald, LLP  
McLean, VA

**Panelists:**  
**Jody K. Debs**  
Corporate Counsel  
CH2M HILL  
Englewood, CO

**David A. Follett**  
Senior Vice-President  
Commercial and Contracts  
AMEC Americas  
Washington, DC

**John D. Onnembo, Jr.**  
Senior Vice-President and General Counsel  
AMEC Construction Management, Inc.  
Fort Lee, NJ

**Christopher J. Brasco**  
Partner  
Watt, Tieder, Hoffar & Fitzgerald, LLP  
McLean, VA

**Session E12**  
**Labor Availability—Contractor Risk, Force Majeure, or Changed Condition?**

Contractors traditionally bear the risk of labor availability. Current market conditions—including the increasing number of megaprojects and trends in the U.S. labor market such as an aging workforce and the availability of skilled labor—have caused owners and contractors to reexamine this approach. What are the practical and legal challenges in allocating labor availability risk? Can labor availability ever constitute a force majeure event or changed condition? Our panel of industry experts will provide advice, tools, and techniques to deal with these hot issues.

**Session Chair:**  
**Peter M. D'Ambrosio**  
Winston & Strawn, LLP  
Washington, DC

**Panelists:**  
**Colin Reid**  
Vice-President and General Counsel  
TIC—The Industrial Company  
Steamboat Springs, CO

**Donald G. Holman**  
President  
HDH Construction Consultants, Inc.  
Annapolis, MD

**Norman C. Spence**  
Senior Vice-President  
Shaw Stone & Webster, Inc.  
Baton Rouge, LA

**George J. Pierson**

Senior Vice-President and General Counsel  
Parson Brinckerhoff, Inc.  
New York

**Thomas N. Sacco**

Vice President—Commercial  
Rolls-Royce Energy Systems, Inc.  
Mount Vernon, OH

**Eric J. Marcotte**

Winston & Strawn, LLP  
Washington, DC

**Session E13****Survive the Next Disaster—Lessons Learned from 4 Construction Perspectives**

This session will focus on how various participants in the construction process plan for, handle, and react to different critical disruptions, such as natural disasters, terrorism, and war. In the wake of Hurricane Katrina and recent world events, construction projects and companies have been facing new and complex challenges that, if not managed properly, could lead to disastrous results.

**Session Chair:****Frank G. Adams, PE**

President  
Interface Consulting International, Inc.  
Houston

**Panelists:****Philip D. Barnard, PE**

Senior Vice-President  
Interface Consulting International, Inc.  
Houston

**Dominic J. Gianna, Esq.**

Senior Partner  
Middleberg Riddle & Gianna  
New Orleans

**Edwin H.C. Goldman**

Director of Upstream Oil & Gas Production Facilities  
KBR, Inc.  
Houston

**Erbin B. Keith**

Vice-President  
Sempra Global  
San Diego

**Session E14****Cumulative Disruption: The Toughest Claim to Prove****Session Chair:**

Evans M. Barba

**Panelist:**

Richard Lowe  
Duane Morris, LLP  
Philadelphia

**Session E15****It's About Time: The Project Schedule—Management Tool or Ground Rules for the Blame Game?**

Project scheduling in the form of PERT charts, Gantt (bar) charts, bubble charts, critical point method (CPM), and precedence diagramming method (PDM), has been around since the 1960s, and since the 1980s in computerized formats that can be stored on laptop computers and applied to most construction projects. Lawyers entered the game early and saw the construction schedule—originally conceived as a management tool for contractors—as a way to create real-time documentation of construction changes, delays, impacts, and inefficiencies. Owners jumped on the bandwagon with the idea that the right schedule would prevent claims. A specification free-for-all followed with requirements for notice, cost loading, resource loading, labor loading, window analysis of all claims, clauses about ownership of float, accusations of intellectual dishonesty, finger pointing, calls for a return to basics, and accusations of computer-phobia. Contractors complying with the more complex scheduling specifications produced reams of paper that were ignored by people in the field, could not be used for management, resolved no claims, and ultimately only confused the lawyers. After 40-plus years, can we finally say what works and what does not with construction schedules? The answer is a resounding yes, but the answer

may surprise some and offend others. Think you are spending your scheduling dollars wisely? Come find out.

**Session Chair:****Lawrence C. Melton, Esq.**

Nexsen Pruet Adams Kleemeier, LLC  
Columbia, SC

**Panelists:****Steven D. Hedges, Esq.**

Nexsen Pruet Adams Kleemeier, LLC  
Greensboro, NC

**David E. Pearson**

President  
Pearson Management Group, Inc.  
Montgomery, AL

**Robert P. Hammell, FAIA**

Skidmore, Owings & Merrill, LLP  
Washington, DC

**John V. Snyder, Esq.**

Senior Counsel, Claims Manager  
Bechtel Corporation  
Frederick, MD

**3:30 p.m. – 4:45 p.m.**

**Session E16****Common Disputes on Light Rail Transit Projects and How to Resolve Them**

Light Rail Transit (LRT) projects are becoming a major area of construction across the United States. LRT projects tend to run into utility problems, unforeseen conditions, design issues, and project management. This session will discuss the viewpoints of both the owner and contractor counsel and experts relative to what the parties see as the major issues that contribute to disputes on LRT projects with perspectives on how to resolve the disputes both during and after the project, as well as the significant cost and delays that can result.

**Session Chair:****Brian Manning**

Vice-President  
Sterling Construction, Inc.  
Houston

**Panelists:**

**Dr. Patricia D. Galloway, PE**  
CEO  
The Nielsen-Wurster Group, Inc.  
Seattle

**Reza Nikain**

President  
The Nielsen-Wurster Group, Inc.  
Princeton, NJ

**Sam E. Baker, Esq.**

Oles Morrison Rinker & Baker, LLP  
Seattle

**Philip R. White**

Chair, Construction Law Practice  
Group  
Sills Cummis Epstein & Gross, PC  
Newark, NJ

**Session E17**

**Dispute Resolution in the Global Economy: The Rise of International Commercial and Investment Treaty Arbitrations**

Like almost all sectors of the economy, the engineering and construction industry has been and will continue to be dramatically impacted by globalization. As a result, more and more of today's projects involve substantial international players and transactions. One clear by-product of globalization is the growing prevalence of international commercial and investment treaty arbitrations for dispute resolution. Projects now more commonly provide for international commercial arbitration by contract. Also, even without a contractual arbitration clause, on projects where disputes arise with a foreign state or its subdivision or agencies, aggrieved parties can sometimes invoke commercial arbitration or arbitration under the auspices of ICSID (an arm of the World Bank) based on bilateral and multilateral investment treaties (BITs and MITs).

The panel will discuss the complex array of dispute resolution issues that participants in today's projects often face. The panel will suggest strategies to employ from the contract negotiation phase through enforcement of the award to minimize risks associated with dispute resolution.

**Session Chair:**

**John R. Dingess, Esq.**  
Partner  
Kirkpatrick & Lockhart Nicholson  
Graham LLP  
Pittsburgh

**Panelists:**

**Thomas A. Thompson**  
Director Business Risk Assessment and  
Control  
Kellogg Brown & Root, Inc.  
Houston

**Ronald J. (R.J.) Chleboski, Jr., Esq.**

Partner  
Kirkpatrick & Lockhart Nicholson  
Graham LLP  
Pittsburgh

**Brian R. Davidson, Esq.**

Partner  
Kirkpatrick & Lockhart Nicholson  
Graham LLP  
Pittsburgh

**Session E18**

**Got Coverage? Insurance Issues That Will Shape the Next Generation of the Construction Industry**

Insurance is a risk-transfer tool that is critical for the continued success of the construction industry. Certain coverages that were available recently are now provided by few carriers, if at all. What insurance will be available in the future and how will that effect construction and design contracts? The panel will focus on some of the issues and challenges as related to professional liability insurance including coverage for specific projects. The number of insurers offering this type of coverage has substantially declined in the past five years, and that situation is not likely to dramatically change in the foreseeable future. How will we address this risk in the future? Have most insurers withdrawn from this market? What has been the claims experience? How have underwriting practices changed to respond to insurer concerns? What insurers are in the market? Is the situation any better or worse in the context of design-build projects?

**Session Chair:**

**Thomas J. Driscoll**  
Senior Vice-President  
URS Corporation  
Denver

**Panelists:**

**David J. Hatem, Esq.**  
Donovan Hatem, LLP  
Boston

**Bob Rogers**

Lexington Insurance Company  
Boston

**Session E19**

**Total Float—Longest Path? Mastering the New Scheduling Software Technology**

This session will discuss and dissect what's new under the sun in critical path method (CPM) scheduling. Recent changes in scheduling software give the scheduler a better understanding of some aspects of project time while significantly complicating others.

The industry is now coming to grips with the impact of multiple calendar schedules. The days of sorting by total float to determine the critical path are over. Not everyone needs to understand the intricate details of the software currently being used on construction projects, but everyone needs to understand the impacts this technology has on construction scheduling as we know it.

The panel will square off in a mock negotiation involving a contractor, owner, their consultants, and counsel that highlights the impact that emerging scheduling technology is having on delay analysis. This session will focus on the ground rules owners and contractors need to know for using CPM schedules to assess delay.

**Session Chair:**

**Michael F. D'Onofrio, PE**  
President  
Capital Project Management, Inc.  
Blue Bell, PA

## **Panelists:**

**Mark Boe, PE**  
Vice-President  
Capital Project Management, Inc.  
Blue Bell, PA

**Jeffrey R. Cruz, Esq.**  
Partner  
Thelen Reid & Priest, LLP  
New York

**Jon M. Wickwire, Esq.**  
Shareholder  
Akerman Senterfitt  
Vienna, VA

## **Session E20**

### **The Construction Project and Claims: Emerging Methods and Technology (Digital Representation, 3-D/4-D Modeling), and the Daubert Challenge**

This session will examine and discuss methodologies employed in the construction project from cradle to grave, including developing, proving, and defending construction claims. The panel will review the traditional methods of estimating impact, calculating damages, and presenting those results to a Trier of fact with a discussion of the problems and shortfalls inherent in those methods. They will look at the ways, means, and tools that are being developed to address these shortfalls.

The panel will look at how 3-D and 4-D modeling can support the construction and claims processes. They will discuss how the use of various methodologies, interfacing with Primavera and MS Project, can move the entire construction process forward. They will explore the use of rapidly developing technologies, including real-time digital photography, computer modeling (3-D and 4-D), graphics, animation, and other multimedia forces. They will discuss how these technologies can render extremely complex issues as visualizations that are more easily assimilated by everyone from construction crews to a Trier of fact.

Finally, the panel will discuss the process of qualifying such demonstrative evidence in the face of the Daubert test, opposing counsel, and even recalcitrant Tribunals.

## **Session Chair:**

**Robert C. Gardner, Jr.**  
Vice-President – Government Contract & Claim Advisory Services  
Rimkus Consulting Group, Inc.  
Houston

## **Panelists:**

**Howard Marcus**  
President  
Construction Documentation Services

**Prof. Martin A. Fischer, PhD**  
Center for Integrated Facility Management (CIFE)  
Stanford, CA

**Jonathan J. Dunn, Esq.**  
Sedgwick, Detert, Moran & Arnold, LLP  
Irvine, CA

**Ken L. Homfeld**  
Vice-President, Const/Prop/Fire  
Rimkus Consulting Group, Inc.  
Houston

**4:45 p.m. – 6:00 p.m.**

## **Session E21**

### **Liability Issues Resulting From the Use of New Technologies**

New, more efficient processes and emerging technology tools such as building information modeling (BIM) systems, shared design 3-D models, and new collaboration tools are blurring the traditional lines between architects, engineers, detailers, suppliers, contractors, and subcontractors and allocating the risk of performance in new ways. Material such as structural steel is being fabricated directly from the 3-D design model, moving the designer into the building arena. Multiple design consultants from different companies are working in a shared design model, raising ownership issues and making it harder to determine who was at fault for errors and omissions. These new ways of doing business should be encouraged because they foster teamwork and communication, but the parties, and their insurers, need to better understand the new roles and protect

against any new risks.

This panel will discuss the dramatic changes that are occurring in the construction industry, explain integrated practice and BIM, and how they are changing relationships between companies, and discuss specific legal issues associated with this new way of practicing.

## **Session Chair:**

**Dr. Gui Ponce de Leon, PE**  
Managing Principal  
PMA Consultants, LLC  
Ann Arbor, MI

## **Panelists:**

**Robert C. Chambers, Esq.**  
Partner  
Smith Currie & Hancock, LLP  
Atlanta

**Leah A. Rochwarg, Esq.**  
Seyfarth Shaw, LLP  
Boston

**Dennis R. Shelden, PhD**  
Chief Technology Officer  
Gehry Technologies  
Los Angeles

**David Hatem, Esq.**  
Boston

## **Session E22**

### **New Light through Old Windows—Owners and Contractors Working Together to Minimize and Resolve Labor Inefficiency Claims**

Claims for labor inefficiency or loss of productivity are common in construction. These claims can also be the most challenging to quantify, prove, and defend. Owners believe contractors use these claims to recover from poor bids or inadequate project management, and contractors accuse owners of abdicating their responsibility for the additional costs. The optimal time to mitigate and address these impacts is during the course of construction.

The panel will discuss how to identify project events and conditions that precipitate the potential for labor inefficiency claims, real time approaches to minimize the impact of such claims,

and mechanisms to document job progress and costs so unavoidable and unresolved claims can be identified, quantified, and presented or defended successfully. Considering the perspectives of owners and contractors, the panel will take a delay and labor inefficiency claim through the stages of project construction, negotiations, postconstruction ADR procedures, pretrial discovery, and presentation at trial or arbitration.

**Panelists:**

**Brian G. Corgan**  
Partner  
Kilpatrick Stockton, LLP  
Atlanta

**William E. Dorris**  
Partner  
Kilpatrick Stockton, LLP  
Atlanta

**William D. Guernier**  
Managing Director  
Navigant Consulting, Inc.  
New York

**Bob McCally**  
Principal  
McCally Group, LLC  
Lewisville, TX

**Session E23**

**Becoming Your Own Insurance Company: An Examination of Wrap-Up Insurance Programs Versus Captive Insurance Programs for Construction and Design Risks**

Large companies and groups have enjoyed the benefits of owning their own insurance companies for years. These benefits include increased control over key insurance decisions, access to the reinsurance market, and the potential for long-term savings.

The panel will overview insurance challenges for contractors, design professionals, and condominium developers. It will review CCIPs, OCIPs, OPPIs, self-insurance retentions, deductibles, bonds, subcontractor default insurance, and other coverage programs. The panel will explore how these insurance programs can be included in a

captive insurance company. The benefits of captive insurance programs will be examined, including tax savings, risk-management incentives, set-up strategies, offshore structures, and long-term management and maintenance concepts. Finally, indemnity, subrogation, and various creative contract strategies for managing risk will be presented and analyzed.

**Session Chair:**

**Bryan C. Jackson, Esq.**  
Partner  
Allen Matkins  
Los Angeles

**Panelists:**

**Jeffrey C. Moffat, Esq.**  
Principal  
The Captive Counsel Law Group, Inc.  
Pasadena, CA

**Brian Dooley, CPA**  
Brian G. Dooley & Associates, Inc.  
Newport Beach, CA

**Robert “Mike” J. Cathcart, Esq.**  
Partner  
Allen Matkins  
Los Angeles

**Kenneth W. Curtis, Esq.**  
Partner  
Allen Matkins  
Irvine, CA

**Session E24**

**Managing Catastrophic Project Interruptions**

Once upon a time, acts of god, force majeure provisions (other than weather), suspensions, and terminations were seldom invoked. Today’s project however, is now vulnerable to unprecedented and sudden impacts to the industry which spotlight these provisions. Regardless of whether the interruption was caused by a natural disaster or a manmade failure, today’s owner must make smart choices or risk devastating losses.

Beyond obvious damage control, what are your options? The panel of distinguished experts will examine the viable options that are available to the

owner to salvage its investment, project, and reputation. Does an owner cut its losses by pulling the plug? Should the owner protect its investment by putting the project in a deep freeze? Or does the owner simply call an audible and continue driving the project downfield toward substantial completion? The panel will explore the owner’s needs, alternatives, and appropriate strategies to deal with unexpected and consequential impacts to the project plan.

**Session Chair:**

**Tom Peters, PE**  
Senior Claims Analyst  
PinnacleOne  
Los Angeles

**Panelists:**

**Joe Seibold, PD**  
Executive Vice-President  
PinnacleOne  
Los Angeles

**Jeff DeFeo, Esq.**  
Director of Claims Services  
PinnacleOne  
Laguna Hills, CA

**Kenneth C. Gibbs**  
Gibbs, Giden, Locher & Turner, LLP  
Los Angeles

**Session E25**

**Construction Issues in Building Product Class Actions: Pipes, Siding, Roofing Windows-How Class Actions Attack Innovation in Building Materials and Strategies for Responding**

The market continuously demands more inexpensive, durable, and environmentally sustainable construction materials. As innovation in building materials has progressed, so has the growth of class action lawsuits alleging “defects” in those products. The class action device has systematically affected virtually all building products manufacturers. Manufacturers, builders, developers, and their lawyers and consultants need to understand these lawsuits, how the courts deal with them, and how they are investigated, tried, and settled.

## Thursday/Friday

### *Session Chair:*

**Stephen Zovickian**  
Partner  
Bingham McCutchen, LLP  
San Francisco

### *Panelists:*

**Michael I Begert**  
Partner  
Bingham McCutchen, LLP  
Tokyo

**Rachel De Guzman**  
Managing Architect  
Exponent  
Menlo Park, CA

**Michael J. Sullivan, PhD**  
Cofounder  
The FSC Group  
San Francisco

**Craig van Rooyen**  
Partner  
Bingham McCutchen, LLP  
San Francisco

## 6:00 p.m. – 8:00 p.m.

### **Cocktail Reception**

**Sponsored by Peckar Abramson, PC.**

Combine your conference networking with a fun social setting. This is a prime opportunity to meet old friends, make new friends, and enjoy great food and drink.

## Friday, December 8

## 7:00 a.m. – 8:00 a.m.

### **Continental Breakfast**

### **General Counsel Only Breakfast**

### **Session S1**

### **Cracked Foundation: Is Construction Fraud Increasing?**

**Sponsored by Ernst & Young LLP**

## 8:15 a.m. – 9:30 a.m.

### **Session E26**

### **Session Topic TBD**

This session developed by Deloitte & Touche, LLP. For more information, visit [www.constructionsuperconference.com](http://www.constructionsuperconference.com).

### **Session E27**

### **Top Ten Contractual Life Preservers for Owners, Contractors, and Designers**

Your Blackberry buzzes at 3:00 a.m. The message reads, “Urgent. Project in trouble. Call immediately.” A few minutes into the ensuing call, you either feel panic or relief. You feel panic if you cannot find a contractual provision protecting your client from the situation. You feel relief when you find the contractual life preserver—the contract clause that protects your client from the high-risk dispute.

In this session, experienced counsel from the public and private sectors, representing contractors and owners in difficult situations, will discuss the top ten contractual life preservers that are helpful to contractors, owners, and designers when major disputes arise. They will address drafting considerations that are helpful in making sure not only that life preservers are on board, but also that the life preservers work as intended. Contractors, owners, and designers have different perspectives when it comes to these life preservers and whether and when they should be employed. This session will show a number of useful provisions and the competing perspectives of contractors, owners, and designers.

### *Session Chair*

**Robert L. Meyers, III**  
Jones Day  
Dallas

### *Panelists:*

**Craig Storti**  
Vice-President—Litigation and Claims  
Washington Group International  
Boise, ID

### **Daniel D. McMillan**

Jones Day  
Los Angeles

### **Patrick Appel**

Senior Counsel  
ChevronTexaco Overseas Petroleum  
San Ramon, CA

### **Charles M. Safer**

General Counsel  
Los Angeles Metropolitan  
Transportation Authority  
Los Angeles

### **Erich R. Luschei**

Jones Day  
Los Angeles

### **Session E28**

### **Natural Gas Pipeline Construction: How Much, How Soon, How?**

This session developed by McCarter English, LLP.

The demand for energy never ceases. However, providers cannot force supply through an undersized infrastructure and so must always seek new ways of delivery. The decision to construct new pipelines is never easy and can be upset by numerous unpredictable factors. This session will focus on the domestic energy market, demands, current capacity, and anticipated shortfalls, along with current plans to meet market needs and special considerations (legal, contractual, business) attended to infrastructure development.

### **Session E29**

### **Successful ADR and Impact Analysis Tools—Settling \$500 Million Claims Without Litigation**

On large construction contracts, a contractor often files a project wrap-up claim related to delays experienced during performance, with numerous alleged underlying causes. These submissions typically include a large claim amount for inefficiency and impact to operations that cannot normally be proven with a direct correlation between each event or delay and the resultant cost impacts.

This session will focus on an approach used by the presenters at the Big Dig in



Boston in analyzing and settling large delay and impact/inefficiency claims. One aspect of this analysis and settlement process is referred to as the Weighted Factors Tool, and the panel members will introduce this tool (which was recently featured by the Construction Management Association of America (CMAA) in its CM Advisor publication) and explain its application to the analysis of large inefficient claims.

The panel will consist of owner, contractor, mediator, legal, and consultant representatives that have been involved with successfully settling large impact claims at the Big Dig using innovative techniques including the Weighted Factors Tool.

**Panelists:**

**Patrick McGeehin**  
Rubino and McGeehin

**Richard Martone**  
PMA Consultants

**John Testa**  
Kiewit Construction Company

**Robert M. Fitzgerald**  
Watt, Tieder, Hoffar and Fitzgerald, LLP  
McClean, VA

**Kathy Barnes**  
Watt, Tieder, Hoffar and Fitzgerald, LLP  
McClean, VA

Judge Paul Williams, ASBCA

**Session E30**

**What's Ahead in the Construction Industry? The Shape of Things to Come: Challenges, Risks, and Opportunities.**

Today's construction industry is riskier than ever. Few would argue with the proposition that it has always been a tough industry in which to survive, let alone succeed or flourish. Fewer still would question that problems today are more difficult to predict and/or control than they have been in the past. On the other hand, one could argue that carrying greater risk should bring greater profitability. But is this happening?

What will the next generation bring to the construction industry? More risk and/or more opportunities? What new challenges will the industry face? How should construction professionals prepare for those challenges? The panel will attempt to answer these and other difficult questions, by digging deep into many years of contracting, engineering, and legal experience, reflecting on lessons learned, and forecasting new developments.

**Session Chair:**

**Frank A. McDonough, PE**  
Chairman  
McDonough Bolyard Peck  
Construction Engineering

**Panelists:**

**Charles E. Bolyard, PSP**  
President and CEO  
McDonough Bolyard Peck  
Construction Engineering

**Mark S. McKain, Esq.**  
Principal Counsel and Manager of  
Claims  
Bechtel Corporation

**Steven J. Weber, Esq.**  
Partner, Construction and Design  
Industry  
Holland & Knight, LLP

**9:45 a.m. – 11:00 a.m.**

**Session E31**

**Much Ado About Daubert?**

The Daubert v. Merrell Dow Pharmaceuticals, Inc., 509 US 579 (1993) decision established the authority to challenge an expert's scientific methodology and bases for opinion in science and product liability cases. The Supreme Court subsequently decided Kumho Tire Co., Ltd. v. Carmichael, 526 US 137 (1999) and thereby expanded the gatekeeper role of the trial court in allowing or rejecting expert testimony. The application of Daubert/Kumho to construction delay, labor productivity, and cost analyses could and perhaps should spell the end of certain claim methodologies. With the stakes being

raised by the courts, claimants should not be comfortable submitting a claim that does not appropriately satisfy the tenets of Daubert/Kumho.

The panel will provide their insights into the application of Daubert/Kumho to construction expert analyses involving delay, labor productivity, cost, etc., currently favored and disfavored analytical methodologies, and the question of whether there is a need to establish a formal construction industry group providing a recognized authority on analytical methodologies.

**Session Chair:**

**J. Steve Holloway**  
Holloway Consulting Group, LLC  
Lakewood, CO

**Panelists:**

**Jon M. Wickwire, Esq.**  
Wickwire Gavin, PC  
Vienna, VA

**Neal J. Sweeney, Esq.**  
Kilpatrick Stockton, LLP  
Atlanta

**Randy R. Edwards, Esq.**  
Kilpatrick Stockton, LLP  
Atlanta

**Byrum Lee, Jr., Esq.**  
Lee and Associates  
Denver

**Constance Riedinger, PE**  
Riedinger Consulting  
Sausalito, CA

**Session E32**

**Green Buildings/LEED: New Opportunities and Challenges For the Construction Industry**

The increasing popularity of green design and construction and the inclusion of LEED-certification requirements in project contract documents present emerging opportunities and challenges for all construction project participants. The panel will discuss these opportunities, and the technical and legal challenges presented in all aspects of project design, construction, and close out.

## *Session Chair:*

**Leah A. Rochwarg, Esq.**  
Partner  
Seyfarth Shaw LLP  
Boston

## *Panelists:*

**Roderick F. Wille**  
Senior Vice-President and  
Manager of Sustainable Construction  
Turner Construction Company  
Sacramento, CA

**James Fillerup**  
Senior Architect and Design Quality  
Control Manager  
Shaw Environmental & Infrastructure  
Midvale, UT

**Brendan Owens, LEED AP, PE**  
Director, LEED Technical Development  
U.S. Green Building Council  
Washington, DC

## **Session 33 Condominiums, Condo-Hotels, and Timeshare: Unusual Construction Issues In Multi-Owner Projects.**

As shared ownership of real estate becomes more popular, new opportunities arise for developers, lenders, design professionals, and contractors. Construction of such projects, however, can generate unusual complications and unanticipated difficulties.

This session will focus on design and construction issues frequently encountered when developing various forms of multiowner real estate, such as traditional residential condominiums, nontraditional condominiums (e.g., hotel, timeshare, office, industrial), and non-condominium timeshare and fractional ownership projects. Discussion will include issues unique to multiowner projects, transactions from initial structuring to “sell-out”, the claims they often spawn, and preferred ways to address design and construction issues uniquely associated with them. The panel also will address implied and statutory warranties granted to consumer purchasers, claims and litigation commonly associated with condominium design and construction, and unusual difficulties insuring condominium projects.

## *Panelists:*

**Dennis J. Powers**  
Partner  
DLA Piper Rudnick Gray Cary LLP  
Chicago

**Joshua L. Glazov**  
Partner  
DLA Piper Rudnick Gray Cary LLP  
Chicago

## **Session E34 Three Mile Island Revisited: Blinded by Reality: How Fail Safe Systems Fail and How the Nuclear Industry is Responding**

Nuclear power is reemerging in large part because, in a relative sense, it is environmentally friendly. But what about the Three Mile Island incident and the Chernobyl disaster? Confidence in nuclear power will correlate to the public's confidence in the nuclear industry's ability to operate their plants safely.

In this session, the Chief Operator during the Three Mile Island incident of March 28, 1979, will explain what happened and how objective indications of an impending disaster were interpreted to reach mistaken conclusions. A member of the legal team that represented American Nuclear Insurances in defending claims and lawsuits arising from the Three Mile Island incident will discuss that litigation and the lessons learned.

## *Session Chair:*

**Bruce W. Ficken, Esq.**  
Partner  
Pepper Hamilton, LLP  
Philadelphia

## *Panelists:*

**Richard W. Foltz, Jr., Esq.**  
Partner  
Pepper Hamilton, LLP  
Philadelphia

**Robert D. Coovert**  
Director of Human Performance  
Exelon Nuclear  
Warrenville, IL

## **Session E35 Risk Management and Dispute Resolution: The Latin American Experience**

This program will explore the evolving climate for doing business and managing risks associated with Latin American megaprojects. In addition to consideration of dispute resolution terms and other contract requirements that must be addressed to deal with the proper allocation of risks that are unique to this region, the panel will provide insight concerning factors influencing the success of contracting arrangements for oil and gas interests, marine facilities, and industrial development. The discussion will include a review of trends in international arbitration, management of force majeure risks, political risk insurance, and other insurance considerations.

## *Session Chair:*

**Jeffrey G. Gilmore, Esq.**  
Shareholder  
Akerman Senterfitt Wickwire Gavin  
Vienna, VA

## *Panelists:*

**Luis M. O’Naghten, Esq.**  
Shareholder  
Akerman Senterfitt  
Miami

**John L. Shoemaker, Esq.**  
Senior Counsel  
El Paso Corporation  
Houston

**Owen J. Shean, Esq.**  
Shareholder  
Akerman Senterfitt Wickwire Gavin  
Vienna, VA

**Michael C. Loulakis, Esq.**  
Shareholder  
Akerman Senterfitt Wickwire Gavin  
Vienna, VA

**11:00 a.m. – 12:15 p.m.**

### **Session E36**

#### **Have Designers Stopped Designing?**

Anyone who has been involved in a construction claim or dispute has, no doubt, tried to trace that dispute to its origin. That analytical effort seems to point, with increasing frequency, to the designer. The architect or engineer is assailed for construction documents that are inaccurate, incompatible, or incomplete, inevitably giving rise to claims from the beleaguered constructors. Is the blame warranted, or is it mere rationalization? This panel of seasoned construction veterans—designers, constructors, and the attorneys who ultimately must resolve these disputes—will assess the validity of this hypothesis in a frank and direct discussion.

#### *Session Chair:*

**James K. Bidgood, Jr., Esq.**  
Smith, Currie & Hancock, LLP  
Atlanta

#### *Panelists:*

**Jack K. Lemley**  
CEO  
Lemley & Associates, Inc.  
Boise, ID

**Chester A. Widom, FAIA**  
WWCOT Architecture  
Santa Monica, CA

**James A. Staskiel, Esq.**  
Senior Vice-President/General Counsel  
and Secretary  
McCarthy Building Companies  
St. Louis

**Laurence “Larry” Hampton, PE**  
Senior Principal  
PMA Consultants, LLC  
Phoenix

### **Session E37**

#### **Building Information Modeling— Fact, Fiction, or Fantasy?**

Building Information Modeling (BIM) is coming of age, creating anticipation, aggravation, and angst. This technology

is so cutting edge that the National Institute of Building Sciences is developing a National BIM Standard to be released by year’s end. The panel will discuss the highlights and hurdles facing BIM, its use in ongoing projects like the World Trade Center Freedom Tower, and will help guide the audience through the hype and anxiety for a better understanding of BIM’s implications.

#### *Session Chair:*

**Barbara Werther**  
Partner (Construction and Government  
Contracts)  
Thelen Reid & Priest, LLP  
Washington, DC

#### *Panelists:*

To include representatives from  
(subject to change):  
HOK  
Thornton Tomasetti, Inc.  
GSA  
Exponent  
The Duggan Rhodes Group  
John A. Martin & Associates

### **Session E38**

#### **Defending and Prosecuting Construction Claims: From Defending “Qui Tam” Actions to Recovery of Affirmative Claims on Federal Projects**

When the Government demands information concerning the accuracy of claims and certifications submitted, an investigation under the Federal False Claims Act may already be underway. The panel will discuss the potential for both criminal and civil exposure under the Federal Act, with an update on current recoveries against defense contractors. Strategies for handling the Government’s investigation, as well as potential whistleblowers, will be discussed.

As a Government contractor, you also have the right to demand and pursue payment of affirmative claims on Government projects. The panel will discuss procedural requirements, necessary certifications and intricacies of prosecuting claims against the federal government and its agencies governed by the Contract Disputes Act and the Federal

Acquisition Regulations. Our discussion will range from filing and obtaining claim decisions by Contracting Officers of federal agencies, including Army, Navy, and Air Force, to pursuing appeals before the Armed Services Board of Contract Appeals, other agency boards of contract appeals, the U.S. Court of Federal Claims and the U.S. Court of Appeals for the Federal Circuit.

#### *Session Chairs:*

**Kenneth L. Sable**  
Partner  
Post & Schell, PC  
Harrisburg, PA

**Gary A. Wilson**  
Partner  
Post & Schell, PC  
Philadelphia

#### *Panelists:*

**John W. Dornberger**  
Partner  
Post & Schell, PC  
Harrisburg, PA

**Thomas L. Isenberg, Jr.**  
Partner  
Post & Schell, PC  
Harrisburg, PA

**Barbara A. Zemlock**  
Partner  
Post & Schell, PC  
Harrisburg, PA

### **Session E39**

#### **Design Considerations for a Post 9/11 World**

The 9/11 terrorist attacks in New York City and Washington, DC, were defining events not only in mankind’s history, but also on how architects and engineers are designing buildings and other structures to accommodate the new threats and realities of a harsh world. In response to these security threats, architects and engineers are reevaluating past design practices and procedures and reexamining code-specified design loadings and other life-safety systems to develop new designs that could survive a terrorist attack and minimize the potential for progressive and total collapse.

Systems are being designed for many major structures, such as glass curtainwalls, fireproofing, and means of egress that could resist blast loads and other attacks. A panel of distinguished building design professionals will discuss the issues and new design considerations.

**Session Chair:**

**Daniel A. Cuoco, PE**  
President  
Thornton Tomasetti, Inc.  
New York

**Panelists:**

**Emmanuel Velivasakis, PE**  
Managing Principal  
Thornton Tomasetti, Inc.  
New York

**John Abruzzo, PE**  
Principal  
Thornton Tomasetti, Inc.  
New York

**Gary Panariello, PhD, PE**  
Principal  
Thornton Tomasetti, Inc.  
New York

**Gerald “Jerry” Hallissy, FAIA**  
Vice-President  
Fibrwrap Composite Technologies  
Calverton, NY

**John Crawford, PE**  
President  
Karagozian & Case  
Burbank, CA

**Raymond T. Mellon, Esq.**  
Partner  
Zetlin & De Chiara, LLP  
New York

**Session E40**

**The Future of K-12 Construction: Alternatives to Design-Bid-Build**

Construction management, construction management at-risk, and lease/lease-back delivery methods have gained an increased market share, substantially limiting the availability of price-based hard bid work, requiring increased sophistication

from trade/subcontractors, and creating entire new market opportunities and requirements. This panel of school-construction specialists will provide an overview of these approaches, legal issues, and the replication available in other states.

**Session Chair:**

**P. Randolph Finch, Jr., Esq.**  
Partner  
Marks, Golia & Finch, LLP  
San Diego

**Panelists:**

**Eric G. Stenman**  
General Counsel  
Douglas E. Barnhart, Inc.  
San Diego

**Jeffrey B. Baird**  
Partner  
Marks, Golia & Finch, LLP  
San Diego

**Jason R. Thornton**  
Partner  
Marks, Golia & Finch, LLP  
San Diego

**12:15 p.m. – 2:00 p.m.**

**Luncheon Closing Address and General Session P3**

Session hosted by Exponent

**Catastrophe at the Site: How to Survive and Recover**

**A Live Simulation**

A major construction project is nearing completion, on schedule and on budget. The project will be the cornerstone of urban renewal for Star-Crossed City. Suddenly, a major catastrophe strikes. There is a partial collapse, there are fatalities, major portions of the facility are destroyed, and adjacent businesses are affected. And to top it off, it's an election year!

The event has dire implications including criminal, civil, financial aspects, and could threaten a firm's continued existence. How do we handle the media coverage? How can the delay to the project be minimized? How can the cost be contained? How do we address the needs

of the injured and the affected families and business but not prejudice our positions with our insurance coverage and the eventual lawsuits that will result. How do we get out of this alive and prevent the loss of our reputation and client base?

A multidisciplinary panel will provide dramatic “live” coverage of this complex situation in an entertaining format. The participants will include a public relations manager, a general contractor, an attorney, a structural engineer, and a construction consultant, all experienced with similar situations. As events unfold in “real time,” they will explain best practices for managing the crisis and dramatize the worst nightmares that could otherwise develop.

Often, news arrives of major catastrophes at ongoing or recently completed construction projects, sometimes resulting in a loss of life. These events make national headlines and the associated parties suffer a loss of reputation. With proper planning and training, a firm can not only survive these catastrophes, but can enhance its standing in the community; it's all in how things are handled from the moment the event occurs. This session will explain how to plan for and manage the process when catastrophe strikes.

**Session Chair:**

**Steven Charney, Esq.**  
Peckar & Abramson, PC  
New York

**Panelists:**

**Merrie Spaeth**  
Spaeth Communications  
Dallas

**David B. Peraza, PE**  
Exponent  
New York

**Robert Freas**  
Exponent  
Alexandria, VA

**Edward V. McNeill**  
Senior Vice-President, Operations  
Turner Construction Company  
Orlando, FL



# CONSTRUCTION **SUPERCONFERENCE**

THE PREEMINENT CONSTRUCTION INDUSTRY EVENT

## Shaping the Future of the Construction Industry Business

Attending the Construction Superconference is much more than hearing keynote presentations and learning lessons in best practices. It is an intimate look inside real situations that have arisen in major projects, with real approaches and solutions to deal with them in the future.

Keynote presentations will focus on the geopolitical arena, organized labor, and real-life catastrophes at the site. Educational sessions will cover public-private partnerships, risk allocation, project planning and intervention, major claims, dispute resolution across many types of projects, and so much more.

From condominium and hotel projects to green buildings, natural gas pipelines, light-rail transit, and nuclear power plants, experts from every side of the table will present case histories and break down the most challenging situations with sharp insight and practical solutions. All participants will walk away with invaluable information and white papers for future reference.

What is most unique about the Construction Superconference, however, is the tight-knit community that has formed over the past 21 years. Within an elegant and professional atmosphere, participants connect and share knowledge in the classroom, in the hallways, at the parties, and in the real world when the conference is done.

### Contact Information

#### Registration Questions:

**Jo Waugh**

Conference Manager

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E-mail: [jowaugh@](mailto:jowaugh@constructionsuperconference.com)

[constructionsuperconference.com](http://constructionsuperconference.com)

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**Mark Goodman**

Executive Director

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#### Mailing Address:

Construction Superconference  
Vendome Group, LLC  
3800 Lakeside Avenue E., Suite 201  
Cleveland, OH 44114

#### Federal Tax ID #:

20-2320461



## Attendee Information

### About the Palace Hotel

The Palace Hotel offers world-class service and amenities in the elegance of a historical landmark. Centrally located downtown, adjacent to the Financial District, the Palace is walking distance to Union Square, the Cable Cars, the Embarcadero, Chinatown, AT&T Park, Sony Metreon, Yerba Buena Park, the San Francisco Museum of Modern Art, and the Theater District.

### Conference Location/Accommodations

Palace Hotel  
2 New Montgomery Street  
San Francisco, CA 94105  
800.325.3589  
[www.sfpalace.com](http://www.sfpalace.com)

### Hotel Reservations

Conference Room Rate: \$284 + tax  
Conference Rate cut-off date: November 13, 2006  
P: 888.627.7196 or 415.512.1111  
When calling the Palace Hotel, please indicate you are attending the Construction Superconference.  
Online: Go to [www.constructionsuperconference.com](http://www.constructionsuperconference.com) and click "Hotel & Travel."

## Exhibit Information

Please be sure to visit the wonderful display of Exhibits in the Sunset Court. For information on exhibiting, please call 301.570.3495.

## General Information

### Continuing Education Credits

There are many states that recognize this event for mandatory legal education credits. A complete list of these states, the approved credit hours for this event and certificates of attendance will be available at the Superconference.

### Conference CD-ROM

Attendees will receive an exclusive conference CD-ROM compiled from material submitted by the distinguished faculty.

### Government Rates

A 28% government discount is available for this conference for direct government employees (\$1,125.00). Please call 301.570.3495 for details.

### Conference Web Site

[www.constructionsuperconference.com](http://www.constructionsuperconference.com)

### Confirmations:

All registrations received by November 17, 2006, will be acknowledged by e-mail.



## Special Notes

Registration will begin Wednesday, December 6, from 5:00 p.m. to 8:00 p.m. and again on December 7 and 8, one hour prior to the start of the first session. Your badge and conference materials may be picked up at the Registration Desk.

To be listed in the official roster of attendees to be distributed at the conference, your registration must be received by November 17, 2006.

### Cancellation Policy

All requests for refunds must be in writing and received no later than end of business (5:00 p.m. EST) November 17, 2006. Refunds will not be issued after November 17, 2006. A \$210 administrative fee will be charged for cancellations received before November 17. Substitutions of attendees may be made at any time without charge. Space in presentations is on a first-to-register basis. We reserve the right to offer qualified substitute presenters in the event of an emergency, illness, etc. If a particular presentation has to be cancelled, attendees are still responsible for the full amount of their registration fees. Every effort will be made to immediately notify registrants of changes or cancellations. There are no exceptions to this refund policy.

### Tax Deduction

The 1986 Tax Code permits an income tax deduction for education expenses (registration fees and cost of travel, meals and lodging) undertaken to (1) maintain or improve skills required in one's employment or (2) meet express requirements of an employer.



# CONSTRUCTION **SUPERCONFERENCE**

## ATTENDEE REGISTRATION FORM

December 7-8, 2006

Palace Hotel, San Francisco

SOURCE CODE  
**B1**

### THREE WAYS TO REGISTER:

1. Online: [www.constructionsuperconference.com](http://www.constructionsuperconference.com) (credit cards only)
2. Fax: 905.479.9297 (credit cards only)
3. Mail check to: Vendome Group, LLC  
Conference Registration  
3800 Lakeside Ave., E., Ste. 201  
Cleveland, OH 44114-3857

### REGISTRATION INFORMATION (One registration form per attendee. Please copy this form for additional registrants. Please print clearly.)

First Name \_\_\_\_\_ Nickname (for badge) \_\_\_\_\_  
 Last Name \_\_\_\_\_ Job Title \_\_\_\_\_  
 Organization Name \_\_\_\_\_  
 Address \_\_\_\_\_  
 City \_\_\_\_\_ State/Prov \_\_\_\_\_ ZIP/Postal Code \_\_\_\_\_ Country \_\_\_\_\_  
 Phone \_\_\_\_\_ Fax \_\_\_\_\_ Attendee e-mail (required for confirmation) \_\_\_\_\_  
 Name and e-mail address of person coordinating this registration (if other than registrant) \_\_\_\_\_

Please check box if you have special needs. You will be contacted to discuss.

In what type of organization do you work?

- |  |  |
|--|--|
| <input type="checkbox"/> Law Firm          | <input type="checkbox"/> Construction Company        |
| <input type="checkbox"/> Consulting Firm   | <input type="checkbox"/> Engineering Company         |
| <input type="checkbox"/> Design Firm       | <input type="checkbox"/> Investment Development Firm |
| <input type="checkbox"/> Insurance Company | <input type="checkbox"/> Other _____                 |

**REGISTER NOW AND SAVE \$200**  
**[WWW.CONSTRUCTIONSUPERCONFERENCE.COM](http://WWW.CONSTRUCTIONSUPERCONFERENCE.COM)**

### CONFERENCE REGISTRATION FEES

Please check the appropriate box below and fill in the total registration amount.

**Full-Conference Pass** Full-conference attendees are entitled to the following conference components: access to the Exhibit Hall and all educational programs, educational materials (including but not limited to electronic and hard-copy handouts and the conference program), all provided meals (two breakfasts, two lunches), and networking events (Wednesday Wine Country Reception, Thursday Cocktail Party).

#### Regular Rates

- Early Bird** (November 17) .....\$1,375  
 **Regular** (after November 17 & on-site) .....\$1,575  
 **Government**.....\$1,125

**TOTAL REGISTRATION AMOUNT** .....\$ \_\_\_\_\_

### PAYMENT INFORMATION

Please indicate your payment method:

Check (payable to Vendome Group, LLC—U.S. dollars only)

Credit card:  VISA  MasterCard  American Express

Card Number \_\_\_\_\_

Exp. Date \_\_\_\_\_

Full Name on Card (print) \_\_\_\_\_

Signature \_\_\_\_\_

I agree to pay the total registration amount according to the card issuer's agreement.

### SESSION SIGN-UP

Check your chosen course numbers for each day.

- Thursday:  P-01  E-01  E-02  E-03  E-04  E-05  E-06  E-07  
 E-08  E-09  E-10  E-11  E-12  E-13  E-14  E-15  
 E-16  E-17  E-18  E-19  E-20  E-21  E-22  E-23  
 E-24  E-25

- Friday:  S-01  E-26  E-27  E-28  E-29  E-30  E-31  E-32  
 E-33  E-34  E-35  E-36  E-37  E-38  E-39  E-40  
 P-03

Receptions:  Wine Country Reception  Thursday Night Networking Party

**Please double-check your confirmation e-mail to verify your status and session selections.**

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# CONSTRUCTION **SUPERCONFERENCE**

THE PREEMINENT CONSTRUCTION INDUSTRY EVENT

## **PLAN TO ATTEND**

**The Industry Forum for Contractors,  
Owners, and their Attorneys**

**December 7-8, 2006  
Palace Hotel — San Francisco**

**REGISTER NOW AND SAVE!**