



THE 2017 AAA® CONSTRUCTION CONFERENCE
NAVIGATING THE UNIQUE ASPECTS OF CONSTRUCTION ARBITRATION

CONFERENCE AGENDA

Thursday, June 22, 2017

8:00 Continental Breakfast

**8:30 Welcome & Introductions – *Michael A. Marra, Vice President, Construction Division
American Arbitration Association***

8:45 How to Effectively Deal With the 300 Change Order Dispute – Who Controls the Process?

Faculty: Adrian Bastianelli

Peckar & Abramson, P.C.; Washington, DC

Neal Eiseman

Goetz Fitzpatrick LLP; New York, NY

Karen Layng, Chief Strategic Officer and General Counsel

Scheck Industries; Westmont, IL

Wendy K. Venoit

Hinckley Allen; Boston, MA

We've all heard about the case involving tens if not hundreds of individual change orders that need to be decided. What is the best approach as the advocate and the arbitrator in dealing with that situation? What can the advocates give to the arbitrator to make his or her job easier in deciding this type of case? In order to make the proceedings cost-efficient and effective, the AAA teaches its arbitrators to exercise the proper amount of control over the proceedings. But, what happens when the parties collectively resist and want the arbitrators to exercise less (not more) control?

10:00 Break

10:15 Global Construction Disputes – Don't Get Left Behind

Faculty: Roy Cooper, Operations Manager

Arcadis; Middletown, CT

Luis Enrique Graham

Hogan Lovells BSTL, S.C.; Mexico City, Mexico

Charles Juliana, VP and General Counsel

IPS-Integrated Project Services, LLC; Blue Bell, PA

David McPherson

Watt, Tieder, Hoffar & Fitzgerald L.L.P.; Irvine, CA

With uncertainty reigning in markets around the world and construction projects more complicated than ever before, construction disputes are a major risk and can have far reaching consequences. In international contracts, arbitration is almost always the preferred dispute resolution mechanism. None of the parties want to subject themselves to the jurisdiction of a foreign court with different procedures, usually a different language, and in most jurisdictions, no discovery. Over the years, practices have developed which are a blend of different legal systems. These practices and other factors unique to international arbitration will be addressed by the -session faculty.

11:30 Changes to the 2017 AIA Documents and Potential Impacts on Dispute Resolution

*Faculty: **Kenneth Cobleigh, Managing Director and Counsel**
The American Institute of Architects; Washington, DC*
***Howard Goldberg**
Goldberg & Banks, P.C.; Pikesville, MD*

The American Institute of Architects (AIA) has published standard form agreements since 1888. AIA Contract Documents are widely used in construction projects, reflect current industry practices and fairly balance the risks and responsibilities of all project participants. In 2017, the AIA will release updated versions of its flagship A201 family of documents, developed for the design-bid-build delivery model. This session will focus on several revisions made to the A201 General Conditions of the Contract for Construction and its related agreements for design and construction, and how those revisions might impact claims and disputes among project participants and the dispute resolution process.

12:30 Lunch

1:30 The Best Defense is a Good Offense – Keys to Claims Prevention and Mitigation

*Faculty: **William K. "Bill" Andrews**
Andrews Myers, P.C.; Houston, TX*
***L. Wearen Hughes**
Bass, Berry & Sims PLC; Nashville, TN*
***Dr. Anamaria I. Popescu, PMP, PSP**
Berkeley Research Group; Greenwood Village, CO*
***Frank J. Baltz, Senior Vice President & Chief Legal Officer**
Clark Construction Group, LLC; Bethesda, MD*

Even though owners and contractors alike are becoming more and more sophisticated, the "usual suspects" plague every project from a small apartment complex to a large oil and gas mega project: the inability to resolve claims during the project's life. This presentation will give both owners and contractors some effective methodologies and tools that, if followed, may help ensure the successful resolution of claims during a project instead of allowing them to fester and turn into a litigation nightmare.

2:45 Break

3:00 How Do We Get the War Stories if We're Never Allowed to Go to Battle?

Faculty: **John E. Bulman**
Pierce Atwood LLP; Providence, RI
Jeffrey Cruz, Corporate Counsel
Skanska USA Building Inc.; New York, NY
Brianna E. Kostecka
King & Spalding; New York, NY
Tamara J. Lindsay
Holland & Hart, LLP; Denver, CO

Young attorneys typically go from classrooms and textbooks (with relatively little practical experience before the day they are sworn in) to the shadow of computer screens. It is increasingly common for young attorneys to spend virtually no billable time in court, at a deposition, or on a site visit. This session will address how we train the next generation of ADR advocates but still ensure the client is getting the best representation.

4:00 Minimizing Risks of Ethical Dilemmas at Arbitration

Faculty: **Albert Bates, Jr.**
Pepper Hamilton, LLP; Pittsburgh, PA
William Frey
Gibbons P.C.; Philadelphia, PA
Larry Harris
The Law Offices of Larry D. Harris; Potomac, MD
Tonya L. Johannsen, General Counsel
The Beck Group; Dallas, TX

Leading arbitrators and practitioners share personal insights into issues arising from unexpected ethical challenges at arbitration, including: supplemental arbitrator disclosures; arbitrator exceeding powers; party gamesmanship; and sanctions. This session answers the question, "What can counsel do to minimize the inherent risks of ethical dilemmas arising at arbitration?"

5:00 Closing Remarks – Michael Powell, Vice President, Construction Division
American Arbitration Association

5:15 Cocktail Reception

Conference Moderators:

Richard Greenleaf
Berg Hill Greenleaf & Ruscitti LLP; Boulder, CO
Thomas H. Welby
Welby, Brady & Greenblatt, LLP; White Plains, NY