



Clockwise from top left: Forum community service event, City Park, New Orleans; Forum Women's Networking Reception, Scottsdale, Ariz.; Forum video conference session, Chicago, Ill.; Kristine Kubes (L), Federal Appeals Court Judge Bernice Donald (C), Forum Chair Steve Lesser (R) at Scottsdale, Ariz. meeting; Plenary Session at Forum meeting, Chicago, Ill.

American Bar Association (ABA)

# Forum on Construction Law

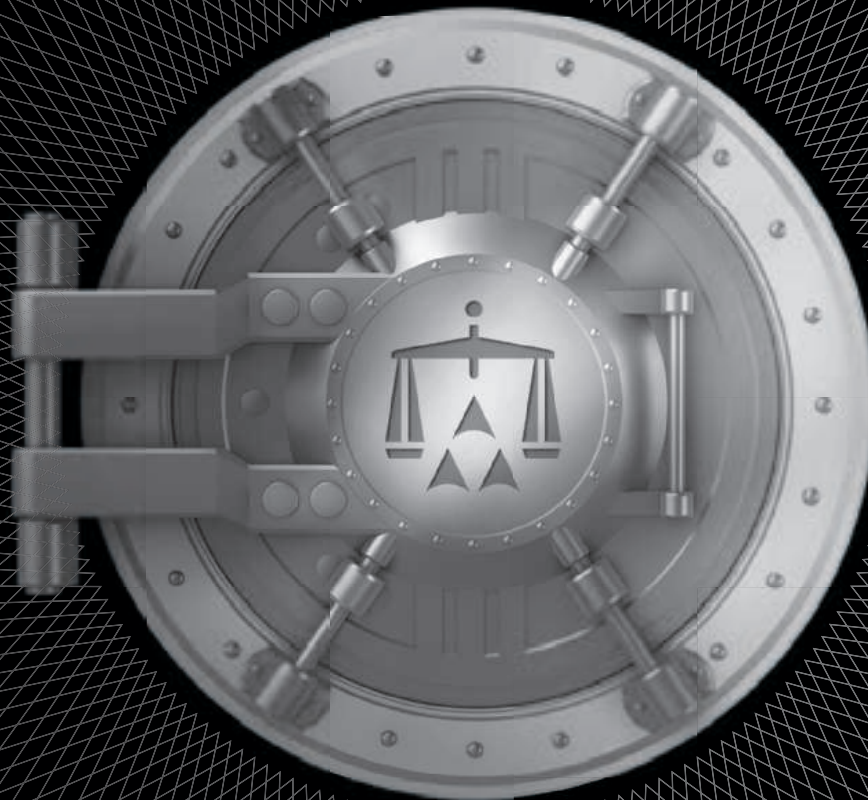
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## A Conversation With Steven Lesser, Chair of the Forum on Construction Law

### *What is the ABA Forum on Construction Law?*

For almost 40 years, the Forum has been the authoritative source for education and networking for construction lawyers and construction professionals from the U.S. and internationally. We have focused on providing services and products central to our mission: Building the Best Construction Lawyers. Some services of the Forum include sponsoring three national meetings a year that focus on new developments in construction law, and publishing practical books and periodicals including *The Construction Lawyer*—the preeminent legal journal in the industry.

We also focus on providing distance learning webinars on cutting-edge topics that allow our members to improve their skills without leaving their offices. The Forum tracks legislative initiatives and generates practice tips from the Forum's 14 Divisions—each focusing on a specific area of construction law.

### *Who are your members?*

The Forum represents the largest organization of construction lawyers in the world with more than 6,000 members. We also have non-lawyer members who serve our industry in a variety of capacities. Over the years, there has been a lot of creative energy and thought leadership emerging from the Forum. When legal developments occur in our industry—DRBs, P3s, modifications to contract forms such as the ConsensusDocs or those published by the AIA—Forum members often become involved at an early stage.

From a document standpoint, Forum members are called upon to provide early feedback to sponsoring groups to identify glitches and raise legal issues that may impact our industry. Through education, Forum members gain fresh knowledge and perspective on current trends which allow their clients in the construction industry—developers, owners, construction managers, general contractors, designers, subcontractors, insurers and others—to be better positioned to compete and excel.

### *I work in the construction field but I'm not an attorney. How can the Forum help me?*

The Forum serves lawyers and non-lawyers because the knowledge we impart is useful to all members of the construction industry. Our Forum attracts construction professionals with varying expertise including project managers, project executives, architects and engineers. We cater to anyone who is looking to stay ahead of possible construction glitches and navigate successful projects from inception to completion.

Members and non-members of the Forum are welcome at any one of our educational programs that explore trending legal issues to educate and inform. Many of those programs are

followed up with breakout workshops that delve further into a topic for a more in-depth, hands-on understanding. At the Forum, we feel it is our job to explore and explain those legal issues impacting the construction industry for anyone who is interested—lawyer or layperson.

### *What is coming up at the Forum?*

We are very excited over our upcoming Annual Meeting from April 16-18 in Boca Raton, Fla.: The Construction Lawyer's Bucket List. During this Forum we'll be exploring what capable and seasoned construction lawyers need "in their buckets" to be successful at their craft. It will be the perfect follow-up to our recent meeting in Scottsdale, Ariz.—My Favorite Mistakes: What Doesn't Bankrupt You Makes You Stronger. During that program, we explored different challenges that construction lawyers must overcome to be successful.

### *What programs can we expect at the Boca Raton Annual Meeting?*

Our Boca Raton Annual Meeting will be designed to provide practical tips to benefit seasoned construction lawyers, industry professionals and young lawyers. Our Annual Meeting faculty consists of top construction lawyers, construction industry professionals and experts who have been specifically recruited to provide various viewpoints on cutting-edge issues.

Some highlights of the Annual Meeting include: practical tips to effectively handle crisis management on the project; establishing a pre-bid risk assessment program; navigating insurance coverage disputes; representing design professionals in disciplinary proceedings, and examining legal implications of new construction technology such as drones on construction projects.

We are very proud of all of our keynote speakers but we are especially proud to be hosting Fred Gray, a lawyer from Alabama. Gray represented Martin Luther King, Jr., defended Rosa Parks in the famous Montgomery City bus case, and skillfully navigated a number of cases and issues that have helped our nation be more inclusive.

Gray's historical presentation will remind our attendees about the privilege of being a lawyer, the importance of defending diversity and the significance of freedom.

### *What do you envision to be take-aways from the Boca meeting?*

We hope that attendees of our Annual Meeting gain practical construction knowledge that can be used in their everyday practices. Additionally, the Forum Annual Meeting offers outstanding opportunities to meet colleagues and network at a top-notch resort in a great location. Simply put, our objective at this meeting will be much the same as it has been for the last 40 years—making our members better at what they do. ■



## Labor Shortages Create Risk at All Levels

Andrew B. Rhodes, CCP, PSP, President, The Rhodes Group

**The risks associated with** the shortage of skilled labor have been widely discussed in the growing U.S. oil and gas sector. From our perspective, risk may specifically result from a lack of sufficient resources that possess the experience and expertise to manage the specific challenges associated with claim management and resolution. This particular shortage in skilled labor poses a significant risk to EPC megaprojects, where the related claims and disputes—much like the projects—are complex and “mega” sized; and thus, require significant time, resources and expertise to analyze and equitably resolve.

In recognition of the potential risks associated with having insufficient resources with this particular expertise, there are a growing number of EPC contractors and owners looking to supplement their teams by outsourcing this skill set at critical times during the project. This has created unique opportunities

for The Rhodes Group to partner with clients to help improve their effectiveness at real-time contract and claims management, allowing them to focus on project execution.

Our involvement with and support of the ABA Forum on Construction Law over the past several years has allowed us to stay abreast of this and many other significant challenges facing our clients in the current construction market. ■

**“Risk may specifically result from a lack of sufficient resources that possess the experience and expertise to manage the specific challenges associated with claim management and resolution.”**

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**Moisture and mold can** cause serious building problems resulting in major construction lawsuits. That's why Liberty Building Forensics Group is offering a free guide to the ABA Construction Forum and to your clients, *Preventing Moisture and Mold Problems – Design and Construction Guidelines*. This guide can help you avoid the detrimental issues that moisture and mold can create in the building process.

The Liberty Building Forensics Group's manual outlines proven techniques used successfully by the largest theme park developer in the world and several

hotel developers worldwide. It was the basis for an NCARB Monograph Manual used to train architects nationwide and it was used by some of the largest general contractors on over 500 projects worldwide. ■

*As experts in avoiding and solving building failures caused by moisture and mold, they'd like to share what they've learned about keeping the moisture out on projects in the U.S., Middle East, Southeast Asia, China and Europe. Download this free manual today at: [www.libertybuilding.com/manual](http://www.libertybuilding.com/manual).*

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JAMS GEC neutrals have both subject matter expertise and broad experience in resolving disputes among all construction industry participants, including public and private owners, contractors, subcontractors, specialty contractors, architects, engineers, sureties, insurers, material manufacturers and suppliers, equipment suppliers, lenders, technical consultants, construction accountants, and building code officials.

JAMS has had a lengthy history with the ABA Construction Forum both as a long-time sponsor as well as through the neutrals' memberships. Additionally, many JAMS neutrals have served in key roles within the organization, including as former Chairs. ■



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### Wagner Hohns Inglis, Inc. (WHI)

is among the leading construction consulting firms specializing in construction claims avoidance and resolution, critical path method (CPM) scheduling/delay analysis, construction and design defects, construction oversight and expert witness services. These services are geared to maintaining the balance needed in construction. Clients come to WHI for one of two reasons—to avoid problems or to solve problems on their construction projects.

WHI is a pioneer in construction consulting as a professional endeavor. For more than 45 years, thousands of clients have trusted WHI to help meet the challenges they faced on their construction projects; and for 45 years WHI has trusted in the ABA as a staple in their annual marketing plan. Exhibiting at the annual ABA shows is an essential requirement to building and maintaining relationships with their clients, as well as keeping on top of what is new and developing in the industry.

If you will be attending the upcoming ABA show, stop by the WHI booth, say hello and see how they can help you on your construction project. ■

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WHI has offices located in Mt. Laurel, N.J. and Ft. Lauderdale, Fla.

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## The Good, the Bad, the Ugly of Cross Examination

Since 1986, Interface Consulting International, Inc. has provided expert services on matters involving construction claims, arbitration and litigation. As a leading construction consulting firm, Interface Consulting assists clients and their attorneys with analyzing construction projects to determine liability for disputed matters, such as increased cost, reduced labor productivity, defects and delayed schedules. Clients benefit from the comprehensive evaluation and professional services that Interface Consulting provides on each assignment.

Interface Consulting has a long-standing relationship with the ABA Forum. During the ABA's Annual Meeting this upcoming April, Principal Consultant and President Frank Adams, P.E., will be co-presenting a seminar, "Cross Examination of a Scheduling Expert—The Good, The Bad, The Ugly." This seminar will use a mock cross-examination to demonstrate the techniques that may be used while challenging

an opposing party's expert.

This seminar intends to develop the attendee's ability to effectively correlate and understand the many complicated events that may occur in a construction dispute. The mock cross-examination will illustrate how to thoughtfully select the proper analytical approach in the best manner. This approach is critical to an expert's ability to present a case in a successful manner that is both thematically and technically persuasive.

It will also review the most important aspects of preparing for cross-examination, such as knowing the vulnerabilities of a case and ensuring that the retained expert is prepared to prudently navigate those areas. These and other aspects of the cross-examination will be presented at the upcoming ABA Forum. ■



## Successful Resolution to Your Construction Law Challenges

PMA has been an active participant in the ABA Forum, including at the Division level. The Forum delivers high-quality programs that are of interest to PMA staff, ensuring that these experts are current on industry trends and current case law. PMA has been fortunate to participate and present in ABA Webinars during which PMA professionals convey their expertise to the construction law community.

When construction disputes or delays occur, the parties involved recognize that a great deal is at stake. Identifying competent construction experts to resolve those disputes makes a significant difference in your outcome. PMA's experts have a wealth

of experience in identifying, analyzing, preparing and presenting claims and disputes on construction and engineering projects. PMA's distinct edge over other construction claims experts is a result of their expertise and experience in managing more than \$100 billion in actual construction projects and programs. PMA's hands-on experience on real-life projects has consistently proven invaluable to clients who ask PMA for expert advice or when providing after-the-fact analyses of disputes and claims. ■



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## Building the Best Construction Lawyers

At the Forum's Annual Meeting in Boca Raton, the agenda focuses on cutting-edge programs for the seasoned and younger construction lawyer or professional.

Highlights include:

- ▶ Effective Crisis Management on the Project
- ▶ Establishing a Pre-Bid Risk Assessment Program
- ▶ Insurance Coverage Disputes and How to Navigate Them
- ▶ Representing Design Professionals in Disciplinary Proceedings
- ▶ Legal Implications of New Construction Technology Including Use of Drones

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Program Information:  
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## Furthering the Case of Construction Law

**Paul Ficca**, Construction Solutions – Global Practice Leader, FTI Consulting

**As a leading global provider** of project advisory, construction claims analysis and expert witness services, FTI Consulting has been a long-time supporter of the ABA Forum on Construction Law.

Over the years, our professionals in accounting, engineering and construction have authored articles, spoken at various Forum conferences and seminars, and have contributed to Forum books. Pat McGeehin, our Americas Practice Leader, is a co-author of the Forum's publication entitled *Construction Accounting: A Guide for Attorneys and Other Professionals*. Additionally, the Senior Managing Director in our Denver office, Todd Mohr, will be speaking on a panel at the Forum's upcoming Annual Meeting in Boca Raton. The panel Todd will be speaking on addresses "Helping Your Client Set Up a Pre-Bid Risk Assessment System."

The senior professionals at FTI Consulting have been active members of the Forum for over 20 years and participate in the Forum's various divisions. We recognize and appreciate the value our involvement with the Forum affords us—from networking with top construction attorneys across the U.S., to thought leadership opportunities in various legal forums and staying abreast of the latest critical issues and case law decisions affecting the construction industry.

We are proud of our relationship and history with the ABA Forum on Construction Law and look forward to continuing our support in the future. ■



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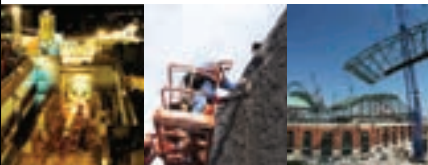
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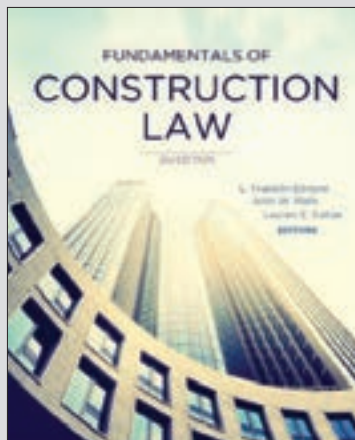
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## The ABA Forum Bookshelf

ABA Forum publications are the prime source of knowledge and legal viewpoints for anyone interested in construction law. These books are written by construction professionals and lawyers in the industry.

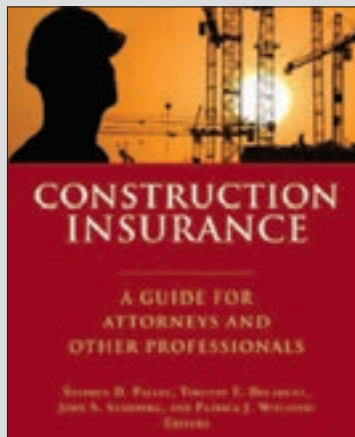
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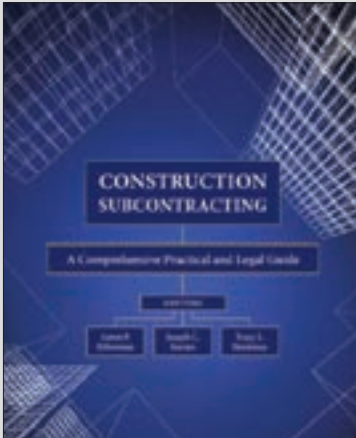
### Fundamentals of Construction Law, Second Edition (2013)

This is the definitive primer on the subjects that are at the heart of every construction project and dispute. In-depth analysis explains the key principles of construction law. This new edition is expanded to include chapters on defects, damages and alternative dispute resolution.



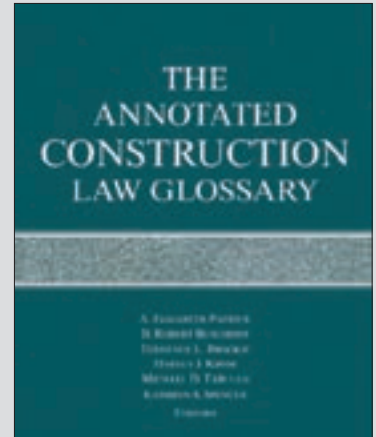
### Construction Insurance: A Guide for Attorneys and Other Professionals (2011)

The intersection between construction and insurance is an often overlooked, but essential consideration. This important resource is a perfect practice handbook for construction practice lawyers, written by practitioners with considerable expertise in both construction and insurance.



### Construction Subcontracting: A Comprehensive Practical and Legal Guide (2014)

This guide brings together a team of experienced attorneys to examine topics including the subcontract document and performance; insurance, bonding and licensure; disputes and different methods for resolution; special project issues, including public projects, alternative delivery methods and green/sustainable building; and other contracting arrangements.



### The Annotated Construction Law Glossary (2010)

This publication provides a fundamental understanding of key terms used in the construction industry and in the practice of construction law. The Glossary includes terms central to the practice of construction law as well as other relevant but “non-legal” terms.

For more information on the ABA Forum, contact:  
 Tamara Harrington, Forum Manager: [tamara.harrington@americanbar.org](mailto:tamara.harrington@americanbar.org)  
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