

# Mealey's™ Construction Litigation Conference:

## Delay & Disruption, Construction Failures and Differing Site Conditions

How to settle disputes between owners  
and contractors in costly, complex,  
problematic building projects.

**Co-Chairs:**

**Kenneth I. Levin, Esq.**

Pepper Hamilton, LLP  
Philadelphia

**Howard D. Venzie Jr., Esq.**

Venzie, Phillips & Warshawer, P.C.  
Philadelphia

May 20 – 21, 2008  
The Rittenhouse Hotel  
Philadelphia

# Mealey's Construction Litigation Conference

## Why you should attend

Construction projects involving multiple parties, time schedules and significant investments are a breeding ground for dispute.

From the moment a property owner accepts a contractor's bid, it sets in motion a long list of expectations and potential contractual issues: cost overruns; construction delays; estimation errors; changed conditions at the building site. Each may result in a costly nightmare for all parties involved.

At **Mealey's Construction Litigation Conference** you'll receive the tools you need to handle a variety of legal headaches resulting from construction delays, failures and extra work claims. Looking at things from both the defense and plaintiff perspectives, you'll learn how to measure the costs of the delay; determine causation; preserve evidence; build a better contract ... and much more.

Owners, contractors, insurers, engineers and counsel, will all benefit from an in-depth understanding of the technical issues associated with the building industry, the legal issues associated with contracts and insurance, and the common-sense approach provided by a team of professionals adept at providing quick, efficient solutions.

## How you will benefit

- Find out how to prove or disprove damages for **delay, disruption, acceleration and inefficiency**
- Learn the tools used for **establishing delay damages** like the Critical Path Method (CPM)
- Examine how to **bullet-proof contracts** with key clauses
- Look at recent construction **failure and defects** cases and how they played out in court
- Get up-to-date on differing site conditions: **recovery and defenses**
- Acquire expertise on **insurance coverage** concerns and subrogation
- Find out the key provisions regarding construction **surety bonds**
- Gain insight into how to best prepare for **mediation and arbitration**

## You don't want to miss

The session on "Construction Failures and Defects" featuring four prominent speakers in the field: international mediator and arbitrator Robert Rubin of McCarter & English; partner and architect Raymond DeLuca of Pepper Hamilton, and two highly experienced structural engineers, John Abruzzo of Thornton Thomasetti and Otto Guedelhoefer of Rath, Rath & Johnson.

## You'll network with

Partners, in-house counsel, risk managers and business executives from around the country and connect with colleagues and conduct business and trade results-orientated ideas.

# Mealey's Construction Lit

May 20 – 21, 2008, The Rittenhouse Hotel, Philadelphia

## Tuesday, May 20, 2008

### 8:00 Registration and Continental Breakfast

### 8:30 Welcome & Introductory Remarks

**Kenneth Levin, Esq.**, Pepper Hamilton LLP, Philadelphia

**Howard Venzie, Jr. Esq.**, Venzie, Phillips & Warshawer, P.C., Philadelphia

### 8:45 Litigating Delay & Disruption Claims: Fundamentals

- Legal responsibility for delay: compensable, excusable and concurrent delay
- “No Damage for Delay Clauses” and exceptions
- Acceleration and inefficiency claim elements
- Notice, waiver and related defenses

**Kenneth Levin, Esq.**, Pepper Hamilton LLP, Philadelphia

**James Schenck, IV, Esq.**, Connor Gwyn Schenck, PLLC, Raleigh, NC

### 9:45 Morning Break

### 10:00 Litigating Delay & Disruption Claims: Proof of Delay and Inefficiency

- Methods of proof of delay
- Critical path method scheduling
- Window analysis, time impact analysis, as built analysis and other approaches to proof of delay
- Proof of inefficiency and acceleration impacts

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

**Michael D'Onofrio, P.E.**, Capital Project Management, Inc., Blue Bell, PA

**Peter Duggan, CCE, PSP**, The Duggan Rhodes Group, Pittsburgh

### 11:00 Proof of Damages for Delay & Disruption

- Causation & linkage
- Damages for delay: extended field and home office overheads, escalation
- Damages for acceleration: overtime and inefficiency costs
- Damages for inefficiency: total cost, measured mile approaches and quantum merit
- Owner damages: liquidated and actual damages

**Walter Sears, Esq.**, Bradley Arant Rose & White, LLP, Birmingham, AL

**Daniel Kraftson, Esq.**, Kraftson Caudle, LLC, McLean, VA

**Scott Gray, P.E.**, Navigant Consulting, Inc., Washington D.C.

# igation Conference

ia

## 12:00 Networking Luncheon

Sponsored by Navigant Consulting, Inc.

## 1:00 Project Delivery Systems

- Design, bid, build
- Design-Build and EPC
- General contract, multi-prime and construction management
- Key contract clauses
- New industry standard form agreements: what's new and how do they compare
- AIA, consensus and EJCDC documents

**Joyce Hackenbrach, Esq.**, Pepper Hamilton LLP, Philadelphia

**James Schenck, IV, Esq.**, Connor Gwyn Schenck, PLLC, Raleigh, NC

**Douglas J. Montalbano, Legal Counsel**, Washington Division of URS Corporation, Princeton, NJ

## 2:15 Construction Failures and Defects

- Definition of failure
- Contractor liability and defenses
- Design professional liability and defenses
- Analysis of causation and responsibility
- Indemnity and comparative fault
- Preservation of the evidence
- Proposing the fix
- Damages for failures, economic loss and betterment

**Raymond DeLuca, Esq.**, Pepper Hamilton LLP, Philadelphia

**Robert Rubin, Esq.**, McCarter & English, LLP, New York City

**Otto Guedelhofer, S.E.**, Rath, Rath & Johnson, Inc., Willowbrook, IL

**John Abruzzo, P.E.**, Thornton Tomasetti, Philadelphia

## 3:45 Afternoon Break

## 4:00 Litigation Potpourri

- Contract formation and bid mistakes
- Payment disputes, prompt pay and mechanics lien
- Termination default and material breach

**Walter Sears, Esq.**, Bradley Arant Rose & White LLP, Birmingham, AL

**Mason Avrigian, Jr., Esq.**, Wisler Pearlstine, LLP, Philadelphia

**Charles Kenney, Esq.**, Peckar & Abramson, River Edge, NJ

## 5:00 Networking Reception

Sponsored by Pepper Hamilton LLP

## Wednesday, May 21, 2008

### 7:30 Continental Breakfast

### 8:00 Differing Site Conditions and Extra Work Claims

- Extra work recovery and defenses: written change order requirements, pricing, notice, waiver and estoppel
- Differing site conditions recovery and defenses: type 1 type 2, constructive fraud, disclaimers, notice, pricing

**Charles Kenney, Esq.**, Peckar & Abramson, River Edge, NJ

**Howard Venzie, Jr., Esq.**, Venzie Phillips & Warshawer, Philadelphia

### 9:00 Construction Insurance

- Conventional insurance, wrap up and OCIP coverages compared
- Key coverage issues: occurrence, property damage, insured's work exclusions
- Subrogation and subrogation issues

**Francis Garrity, Esq.**, Garrity, Graham, Murphy, Garofalo & Flinn, P.C., Montclair, NJ

### 9:45 Construction Surety Bonds

- Payment coverage and issues
- Performance bond coverage and issues

**Mason Avrigian, Jr., Esq.**, Wisler Pearlstine, LLP, Philadelphia

**David Dreifuss, Esq.**, Dreifuss Bonacci & Parker, LLP, Florham Park, NJ

### 10:30 Morning Break

### 10:45 Dispute Resolution: Mediation and Arbitration

- Preparing for mediation—the lawyer's role as advocate
- Dynamics of the mediation process in construction disputes
- Construction arbitration issues—review of recent cases
- Best practices:
  - Effective management of time and cost
  - Safeguarding the award

**Howard Venzie, Esq.**, Venzie, Phillips & Warshawer, Philadelphia

**Judith Ittig, Esq.**, Ittig & Ittig, P.C., Washington D.C.

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

**Daniel Kraftson, Esq.**, Kraftson Caudle LLC, McLean, VA

### 12:15 Adjourn

## Updates Available

View agenda updates, speaker additions, available discounts, CLE information, registration information and more at our Web site:  
[www.lexisnexis.com/conferences](http://www.lexisnexis.com/conferences)

## The Co-Chairs

**Kenneth Levin, Esq.**, is a partner in the Philadelphia office of Pepper Hamilton LLP. He has practiced construction law since 1974, representing contractors and owners in all segments of the industry on public and private work. Mr. Levin has tried construction cases in federal and state courts and before the Armed Services Board of Contract Appeals and the Pennsylvania Board of Claims. He also has presented cases in arbitration, mediation and mini-trials.

**Howard Venzie Jr., Esq.** is the president of Venzie, Phillips & Warshawer, P.C., founded in 1975. He has specialized in construction law since 1971. Mr. Venzie is an active lecturer to various construction contracting firms and industry associations. In addition to his continuous representation of construction industry clients in arbitration and litigation matters since 1971, he has served as an arbitrator in numerous construction/commercial cases, including large complex cases. His experience as an arbitrator includes serving as both a neutral and party-appointed arbitrator and as chairman in many large/complex arbitration cases.

## Mealey's Passport Program

### Reserved conference seating at reduced group rates!

Access substantial savings when you purchase pre-paid Mealey's conference registrations in blocks of seats. Spread the seats out over as many conferences as you like during a 12 month period or send a large group to a single conference. Plus you'll save 50% on all conference audio and video tapes, CDs and DVDs. Call Lynnsey Perrin Hee at 610-804-6165 to start your passport program today!

## Corporate Counsel Save \$200

Are you an attorney for a builder, subcontractor or other corporation? Corporate counsel receive a \$200\* discount when attending **Mealey's Construction Litigation Conference**. For further discount information visit [www.lexisnexis.com/conferences](http://www.lexisnexis.com/conferences) or call 1-800-632-5397.

\*This discount cannot be combined with any other savings. Corporate discount not applicable to law firms or outside counsel.

## Conference Faculty

### CO-CHAIRS

**Kenneth Levin, Esq.**  
Pepper Hamilton LLP  
Philadelphia

**Howard Venzie Jr., Esq.**  
Venzie, Phillips & Warshawer, P.C.  
Philadelphia

### FACULTY

**John Abruzzo, P.E.**  
Thornton Tomasetti  
Philadelphia

**Otto Guedelhofer, P.E.**  
Raths, Raths & Johnson, Inc.  
Willowbrook, IL

**Mason Avrigian, Jr., Esq.**  
Wisler Pearlstine, LLP  
Philadelphia

**Joyce Hackenbrach, Esq.**  
Pepper Hamilton LLP  
Philadelphia

**Raymond DeLuca, Esq.**  
Pepper Hamilton LLP  
Philadelphia

**Judith Ittig, Esq.**  
Ittig & Ittig, P.C.  
Washington D.C.

**Michael D'Onofrio, P.E.**  
Capital Project Management, Inc.  
Blue Bell, PA

**Charles Kenney, Esq.**  
Peckar & Abramson  
River Edge, NJ

**David Dreifuss, Esq.**  
Dreifuss Bonacci & Parker, LLP  
Florham Park, NJ

**Daniel Kraftson, Esq.**  
Kraftson Caudle, LLC  
McLean, VA

**Peter Duggan, CCE, PSP**  
The Duggan Rhodes Group  
Pittsburgh

**Douglas J. Montalbano**  
Legal Counsel, Washington Division  
of URS Corporation, Princeton, NJ

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

**Robert Rubin, Esq.**  
McCarter & English, LLP  
New York City

**Francis Garrity, Esq.**  
Garrity, Graham, Murphy,  
Garofalo & Flinn, P.C.  
Montclair, NJ

**James Schenck, IV, Esq.**  
Connor Gwyn Schenck, PLLC  
Raleigh, NC

**Scott Gray, P.E.**  
Navigant Consulting, Inc.  
Washington D.C.

**Walter Sears, Esq.**  
Bradley Arant Rose & White LLP  
Birmingham, AL

# Registration Information

## Registration Fee

The registration fee includes attendance to all conference sessions, a copy of the conference handbook on CD, continental breakfast each day, one luncheon, networking reception, coffee breaks and continuing education credit processing. The registration fee is \$1195 for the first attendee.

## Special Discounts<sup>†</sup>

- Early-bird registration, by March 25, 2008—\$1095. (save \$100)  
Payment required at time of registration.
- Additional registrants from the same firm or company—\$1045 (save \$150)
- Corporate discount<sup>‡</sup>—\$995 (save \$200)
- Paralegals—\$598 (save \$597)
- Sitting Judges or Special Masters—attend free

**Group Pricing and Passport Packages Available**—contact LexisNexis regarding additional savings for your firm's practice group or legal department. Package pricing available for a single conference or a series of conferences.

## CLE, CPD & CPCU Credits Included<sup>§</sup>

LexisNexis conferences are worth an average of 9 to 12 CLE credit hours. CLE credit will be available for all mandatory CLE states. International accreditation will also be available at this conference, as will CPCU credit through the American Institute for CPCU. For more information or to confirm the exact CLE credit approval for your state(s) of license, please visit [www.lexisnexis.com/conferences](http://www.lexisnexis.com/conferences).

## How to Register

Please register online at [www.lexisnexis.com/conferences](http://www.lexisnexis.com/conferences), call 1-800-632-5397, fax your registration form to 610-205-1167, e-mail [mealeyseminars@lexisnexis.com](mailto:mealeyseminars@lexisnexis.com) or mail your registration form with payment to LexisNexis, P.O. Box 7247-6167, Philadelphia, PA 19170-6167. Receipt of payment guarantees your registration. Walk-in registrations are welcome, however please call in advance to confirm availability. A \$75 service fee may be charged for any on-site registrations.

## Cancellation Policy

Substitutions are welcome at any time. Registrants who are paid in full but do not attend the conference forfeit a refund or credit. Registrants who cancel up to six weeks prior to the conference date will receive a full refund. Registrants canceling from three weeks to six weeks prior to the conference date will receive a full credit toward another LexisNexis Conference product. Cancellations made within three weeks prior of the conference date will be subject to a 50% administrative fee; the remaining amount will be credited toward another LexisNexis Conference product. Credits must be used within six months of the date of issuance. LexisNexis reserves the right to cancel any of its programs. Speakers, sessions and times are subject to change.

## Conference Venue & Hotel Accommodations

The Rittenhouse Hotel is located at 210 West Rittenhouse Square, just 20 minutes from Philadelphia International Airport. Attendees should make reservations directly with the hotel by calling 1-800-635-1042. When making reservations, indicate that you are attending Mealey's Construction Litigation Conference, May 20 - 21, 2008. A block of rooms has been reserved for attendees at a rate of \$299 per night for a single or double room. The cut-off date for this rate is April 21, 2008. After that date, this rate will be offered based on space availability. Please note, there is a limited number of rooms in our room block so make your reservations early.

For alternative hotels, please call us at 1-610-205-1000.

## Special Needs

Should you have any special needs, please contact LexisNexis at least three weeks prior to the conference, to allow us time to make reasonable accommodations.

## Can't Attend in Person? Purchase the Conference on CD

LexisNexis Multimedia Service allows you to bring the best of our live programs to your home or office. The CD includes audio recordings and speaker materials for only \$499 or purchase the speaker materials on CD for \$299. Prepayment is required. The CDs are nonrefundable. Call 1-800-632-5397 or e-mail [mealeyseminars@lexisnexis.com](mailto:mealeyseminars@lexisnexis.com) for more information. Visit [www.lexisnexis.com/conferences](http://www.lexisnexis.com/conferences) for a complete list of recorded programs.

## Sponsorship & Exhibit Opportunities

Increase your exposure, maintain contacts, obtain new leads by sponsoring an event or exhibiting at this conference. Contact Lynnsey Perrin Hee at 610-804-6165 for details.

<sup>†</sup>Cannot be combined with any other offer. Discounts do not apply to single or half-day registrations. For questions regarding discounts, please call LexisNexis customer relations at 610-205-1000.

<sup>‡</sup>Corporate discount not applicable to law firms, outside counsel, accounting firms, consulting groups or investment banks.

<sup>§</sup>Approval pending at time of printing.



# Registration Form

**Mealey's Construction Litigation Conference, May 20 – 21, 2008, The Rittenhouse Hotel, Philadelphia.**

- Register for the Conference.** Multiple attendees: please submit form for each attendee.
- Written materials on CD for \$299.** (U.S. & Canada: Please add appropriate sales tax to your order.)
- Multimedia CD of this Conference for \$499.** The CD includes audio recordings, written speaker materials and presentations. (U.S. & Canada: Please add appropriate sales tax to your order.)

**Please contact me regarding:**

- Group or package **DISCOUNT** pricing.
- Sponsorship and exhibit opportunities.
- Special needs at the conference \_\_\_\_\_.
- Three-month trial subscription to **Mealey's Litigation Report: Construction Defects.**

Name \_\_\_\_\_

E-mail (to receive your confirmation via e-mail) \_\_\_\_\_

Title \_\_\_\_\_

Firm/Company \_\_\_\_\_

Address \_\_\_\_\_  
\_\_\_\_\_

City/State/Zip \_\_\_\_\_

Country \_\_\_\_\_

Telephone \_\_\_\_\_ Fax \_\_\_\_\_

**Type of Registration:**

- Standard     Early-Bird Discount     Multiple Attendees     Corporate Discount
- Other \_\_\_\_\_ Registration Rate: \$ \_\_\_\_\_

Bill Me     Passport Group Discount Member

Check Enclosed (Please make checks payable to LexisNexis Mealey's. Send payment in U.S. funds drawn on a U.S. bank.)

Charge My:     VISA     MasterCard     American Express

Account # \_\_\_\_\_ Expiration Date \_\_\_\_\_

Signature \_\_\_\_\_

08BRCH

**REGISTER ONLINE:** [www.lexisnexis.com/conferences](http://www.lexisnexis.com/conferences)

**PHONE:** 1-800-632-5397 or 610-205-1000

**FAX:** 610-205-1167

**PAYMENTS:** LexisNexis Mealey's, P.O. Box 7247-6167, Philadelphia, PA 19170-6167

9+ CLE Credit Hours Available

LexisNexis

1018 West Ninth Avenue, 3rd Floor  
King of Prussia, PA 19406-1225

Register online at:

[www.lexisnexis.com/conferences](http://www.lexisnexis.com/conferences)

## **Mealey's Construction Litigation Conference: Delay & Disruption, Construction Failure and Differing Site Conditions**

**May 20 – 21, 2008**

**The Rittenhouse Hotel, Philadelphia**

How to settle disputes between owners and contractors in costly, complex, problematic building projects.

**Sponsors & Exhibitors include:**

**NAVIGANT**  
CONSULTING

**Pepper Hamilton LLP**

**Early Bird Special!  
Save \$100**

when you register by  
March 25, 2008.

FIRST-CLASS  
MAIL  
U.S. POSTAGE  
PAID  
LexisNexis