

2021 Surety Bonding and Construction Risk Management Conference

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Construction Risk Management Presentations Offered for CLE Credit* June 2-4, 2021 – Bonita Springs, FL

*AGC is seeking pre-approval of Continuing Legal Education (CLE) credit for the following presentations from states with mandatory requirements. [Check out the complete schedule/agenda.](#)

Thursday, June 3, 2021

Decoding the Mystery of Productivity & Delay Claims

[1 Hour] 9:45am – 10:45am / 11:00am – 12:00pm (*repeats*)

Despite being one of the most common impacts on a construction project, lost productivity is not easily discerned and even more difficult to calculate and substantiate. This session will detail and evaluate the various ways that a contractor can approach a productivity claim, provide guidance on best practices for project management and field personnel on how to keep records that could support a lost productivity analysis, and discuss how courts have ruled on these types of claims.

Speakers

Jeffrey Katz, PE, Vice President - The Vertex Companies, Inc.

Mariela Malfeld, Partner - Watt, Tieder, Hoffar, & Fitzgerald, L.L.P.

Lauren Rankins, Associate - Watt, Tieder, Hoffar, & Fitzgerald, L.L.P.

Andrew Sargent, PSP, Managing Consultant - The Vertex Companies, Inc.

Rachel Walsh, Regional Vice President - Liberty Mutual Surety (*invited*)

Cyber Risk: Are You Prepared for Project Disruption Due to a Cyber Attack?

[1 Hour] 9:45am – 10:45am / 11:00am – 12:00pm (*repeats*)

Join this expert panel to better understand how cyber exposures and threats can be financially and reputationally devastating to the construction industry, impacting both insureds and insurers. Come learn how a firm can treat this risk through proper vetting, insurance, and contractual mechanisms. During the session, you will hear how a cyber incident can materially disrupt a project (subcontractor attack or attack to GC's own systems/equipment), including real-life examples of vendor-related and contractor-specific incidents. Become aware of available cybersecurity controls and commit to implementing them.

Speakers

Jennifer Beckage, Esq., CIPP/US, CIPP/E, Founder and Data Security Lawyer - Beckage

Patrick Duggan, Vice President of Risk and Corporate Secretary - Power Construction Company

Nick Graf, ARM, CISSP, CEH, FIP, AVP of Information Security - CNA – Specialty Risk Control

John Merchant, Managing Director, Cyber and Technology Practice - North America - Optio Group

Meeting Different Expectations: A Consensus Approach to Bonding

[1 Hour] 2:45pm – 3:45pm / 4:00pm – 5:00pm (repeats)

This panel will take a deep dive into the surety bonding needs of the construction industry. The discussion will provide an assessment of bonds as they are typically offered in today's marketplace, including their strengths and shortcomings. Then, don't miss your chance to hear a General Contractor, a large purchaser of bonding, and two Sureties -- all members of the "ConsensusDocs Bond Form Working Group" -- offer a case study and a path forward on how to establish common ground between the buyers of surety bonds and the needs of a surety for a reasonably writeable risk. The program will address issues commonly encountered in the claims process such as the right of self-help, remedy/mitigation using subcontract funds, and the timing of the surety's response.

Speakers

Robert Duke, Vice President and Surety Counsel - Markel Surety

Gregory Horne, AVP - Contract Surety Underwriting Officer - Liberty Mutual Surety

Robert Majerus, Vice President and General Counsel - Hensel Phelps Construction Co.

Kimberly Zanotta, 2VP & Counsel - Travelers Casualty & Surety Company

Friday, June 4, 2021

Top 10 Construction Risk Cases and Issues From 2020 and for 2021

[1 Hour] 9:45am – 10:45am / 11:00am – 12:00pm (repeats)

The most important cases and legal issues from 2020/2021 will be highlighted and discussed. These include the current status of potential insurance coverage for COVID-19 damages, design liability for contractors/sureties, expanding tort liability for general contractors and construction managers, material escalation clauses and expectations (Price Variation Clause and Change in Law Clause to permit adjustment of the contract price), potential liability for subcontractor employees including "wage theft," and a current "snapshot" of construction defect laws and insurance coverage.

Speakers

S. Elysha Luken, Partner - Smith, Currie & Hancock LLP

Ronald Robey, Partner - Smith, Currie & Hancock LLP

DOJ Fraud Investigation Warning: Construction and Surety Industry Hotspots

[1 Hour] 9:45am – 10:45am / 11:00am – 12:00pm (repeats)

The Department of Justice released its 2020 Year-End False Claims Act (FCA) update, and the statistics are eye-popping. The government and *qui tam* relators initiated the largest number of FCA lawsuits in a single year by a wide margin. This session will provide contractors and their bonding industry partners a recap of several hot button fraud issues facing the construction industry. Topics will range from recent agency efforts to thwart a contractor's choice of appealing claims to the board of contract appeals; to warnings for those companies seeking forgiveness of loans under the SBA's Paycheck Protection Program; to recent changes to the Mentor-Protégé Rules that may alter the way contractors or sureties weigh the risk of fraud in set-aside contracts; to an update on how the government seeks to hold sureties and bond producers liable for a contractor's alleged FCA violations. The program will also include discussion of how insurance policies respond to False Claims Act claims.

Speakers

William Boeck, Senior Vice President Global Cyber Product and Claims Leader / US Financial Lines
Claims Practice Leader - Lockton Companies

Tim Heffernan, Senior Partner - Watt, Tieder, Hoffar, & Fitzgerald, L.L.P.