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Current Trends Shaping the Next Generation of Construction Industry Business

San Francisco December 7-8, 2006

Registration Brochure

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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.  Bruce W. Ficken, Esq.
Founding Partner  Partner
Peckar & Abramson, PC  Pepper Hamilton, LLP
New York  Philadelphia

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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 knowledgable 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 then 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
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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DLA Piper Rudnick Gray Cary, LLP
Dorsey & Whitney, LLP
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Guardian Group, Inc.
Holloway Consulting Group, LLC
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Kirkpatrick & Lockhart Nicholson Graham LLP
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Marsh
McCarter & English, LLP
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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.
Trauer 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

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El Paso Corporation
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Fibwrap Composite Technologies
FSC Group, The
GE Johnson
Gehry Technologies
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Granite Construction Northeast, Inc.
GSA
HDH Construction Consultants, Inc.
Holland & Knight, LLP
JAMS Arbitration
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 Trades Council
Oles Morrison Rinker & Baker, LLP
Parson Brinkerhoff, Inc.
Pearson Management Group, Inc.
Riedinger Consulting
Rolls-Royce Energy Systems, Inc.
Rubino and McGeehin
Sedgwick, Detert, Moran & Arnold, LLP
Sempra Global
Shaw Environmental & Infrastructure
Shaw Stone & Webster, Inc.
Sills Cummins 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
WWOOT Architecture
Zetlin & De Chiara, LLP
### Thursday, December 7, 2006

**10:45 a.m. – 12:00 a.m.**

**Session E6**

**Session Chair:** Michael L. McBride, Esq., Partner, Construction Department Co-Chair, Connell Foley, LLP

**Panelists:** Hon. Ronald J. Hedges, USMJA, 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 Fieder, 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 Naye, 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 MDCSytems. For more information, visit 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

**Panelists:** 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. Pichocksi, 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. Cotelli, 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, Hoffar & Fitzgerald, LLP

**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. Grimmer, 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 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 (CFI), Stanford, CA; Jonathan J. Dunn, Esq., Sedgwick, Detert, Moran & Arnold, LLP, Irvine, CA; Ken L. Hemfeld, Vice-President, Const/Prop/Fire, Rimkus Consulting Group, Inc., Houston

Friday, December 8, 2006
8:15 a.m. – 9:30 a.m.
Session E26
This session developed by Deloittte & Touche, LLP. For more information, visit www.constructionsuperconference.com.

Session E27
Top Ten Contractual Life Preservers for Owners, Contractors, and Designers
Session Chair: Robert L. Meyers, Ill, Jones Day, Dallas.
Panelists: Craig Storti, Vice-President—Litigation and Claims, Washington Group International, Boise, ID; Daniel D. McMillain, 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.

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, Hoffer and Fitzgerald, LLP; McAllan, VA; Kathy Barnes, Watt, Tieder, Hoffer and Fitzgerald, LLP, McAllan, 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, Sechel 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 Hancott, LLP, Boston. Panelists: Roderick F. Willie, Senior Vice-President and Manager of Sustainable Construction, Turner Construction Company, Sacramento, CA; James Fillierup, 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
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: James K. Bidgood, Jr., Esq., Smith, Currie & Hancock, LLP, Atlanta; Alexander V. Bulygina, Partner, Pepper Hamilton, LLP, Philadelphia; Richard D. Coevert, Director of Human Performance, Exelon Nuclear, Warrenville, IL

Session E35
Risk Management and Dispute Resolution: The Latin American Experience
Session Chair: Jeffrey G. Gilmore, Shareholder, Akerman Senterfitt Wickwire Gavin, Tyson Corner, VA. Panelists: Luis M. O’Naughten, Shareholder, Akerman Senterfitt; Miami; John L. Shoemaker, Senior Counsel, El Paso Corporation, Houston; Owen J. Shean, Shareholder, Akerman Senterfitt Wickwire Gavin, Tyson Corner, VA; Michael C. Loukas, Shareholder, Akerman Senterfitt Wickwire Gavin, Tyson Corner, VA

Friday, December 8, 2006
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. Wisdom, FAMA, WWCOT Architecture, Santa Monica, CA; James A. Staskiel, Esq., Senior Vice-President/General Counsel and Secretary, McCarthy Building Companies; Louis L. “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): HKD, 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. Dombarger, Partner, Post & Schell, PC, Harrisburg, PA; Thomas L. Iseberg, Jr., Partner, Post & Schell, PC, Harrisburg, PA; Barbara A. Zemlick, Partner, Post & Schell, PC, Harrisburg, PA

Session E39
Design Considerations for a Post 9/11 World

Session E40
The Future of the K-12 Construction: Alternatives to Design-Bid-Build
Session Chair: P. Randolph Finch, Jr., Esq., Partner, Marks, Golka & Finch, LLP, San Diego. Panelists: Eric G. Stemman, General Counsel, DeBello & Bambart Inc., San Diego; Jeffrey B. Baird, Partner, Marks, Golka & Finch, LLP, San Diego; Jason R. Thornton, Partner, Marks, Golka & Finch, LLP, San Diego

12:15 p.m. – 2:00 p.m.
Luncheon Closing Session—General Session P3
Session hosted by Exponent
Catastrophe at the Site: How to Survive and Recover A Live Simulation
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
Thursday

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

Session E6

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 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.

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
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

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
Thursday

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

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

**Session Chair:**
Michael F. D’Onofrio, PE
President
Capital Project Management, Inc.
Blue Bell, PA
Thursday

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
FMA 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
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?**

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

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.

**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

**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
  McLean, VA
- Kathy Barnes
  Watt, Tieder, Hoffar and Fitzgerald, LLP
  McLean, VA
- Judge Paul Williams, ASBCA

Session Chair:
Frank A. McDonough, PE
Chairman
McDonough Bolyard Peck
Construction Engineering

Panellists:
- 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

Panellists:
- 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

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. Coover
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

**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
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.
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
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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

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 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
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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
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Conference Web Site
www.constructionsuperconference.com

Confirmations:
All registrations received by November 17, 2006, will be
acknowledged by e-mail.
CONSTRUCTION SUPERCONFERENCE

ATTENDEE REGISTRATION FORM
December 7-8, 2006
Palace Hotel, San Francisco

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

First Name _______________________________________
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Address ____________________________________________________________________________________________________________________________________________________
City ________________________________________________________
State/Prov ____________ ZIP/Postal Code _________________
Country _______________________________________

Phone ________________________________ Fax ________________________________

Signature _______________________________________
Full Name on Card (print) _______________________________________
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Credit card: □ VISA □ MasterCard □ American Express

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

In what type of organization do you work?
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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

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Please indicate your payment method:
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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.

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.

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December 7-8, 2006
Palace Hotel — San Francisco

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