

Agenda

Managing Risk in the Practice of Engineering Identifying engineering risks Reviewing consequences of potential risks Understanding principles of risk management Complying with professional and ethical standards Identifying strategies to minimize engineering risk and maximize positive results	<i>M. Gerstle</i>
Understanding How Contracts Can Shift, Reduce (or Increase) Risk An overview of contract law and key concepts Understanding contract formation and revision Recognizing liability exposure under contract Reviewing standard contract provisions and understanding their impact on risk <ul style="list-style-type: none">• Guarantees, warranties and indemnities Understanding consequences for delay, disruption, nonperformance, inadequate performance Using contract terms to manage risk	<i>J. Pruden</i>
Law of Engineering Malpractice Reviewing the grounds for professional liability claims Identifying who can bring a claim Examining common sources of professional liability claims Reviewing defenses to liability claims Determining damages Participating in dispute resolution: arbitration, mediation, litigation Obtaining Insurance coverage for professional liability claims	<i>J. Pruden</i>
Reducing Risk for Yourself, Your Company and Your Clients Negotiating fair and understandable contract terms Maintaining adequate documentation Implementing document retention policies and procedures Utilizing forms and standard documents Communicating with clients and other parties Implementing quality control practices Using alternative dispute resolution procedures	<i>M. Gerstle</i>
Recognizing and Responding to Malpractice Claims Pre-claim/circumstance v. pre-suit v. litigated/arbitrated dispute Setting internal reserves: defense within or outside deductible Duty to cooperate Settlement value v. legal liability and exposure Mediation and refund of deductible	<i>M. Gerstle</i>
Minimizing Risk by Maximizing Compliance with Rules of Professional Conduct Complying with rules of professional conduct Preventing conflicts of interest Complying with rules on sealing of documents and plans Preventing the unauthorized practice of engineering Promoting health and welfare vs. managing risk: complementary or conflicting duties? Protecting the environment: meeting or exceeding legal requirements Watching the bottom line: identifying and balancing economic pressures in design and construction Integrating new technologies: identifying and balancing the benefits and risks Reviewing ethics case studies and hypotheticals	<i>O. Banks</i>

Managing Engineering Liability and Risk in Texas

Live, Interactive Webinar - Thursday, August 19, 2021

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Learning Objectives

- You'll be able to:**
- Identify** potential engineering risks and learn how to minimize them.
 - Recognize** liability exposure in contracts and explore the use of contract terms to manage risk.
 - Learn** how good communication and documentation practices can reduce professional liability risks.
 - Reduce** risk by maximizing compliance with rules of professional conduct.
 - Learn** how to respond when a risk results in potential liability.



HalfMoon Education Online Learning

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- Learn** how to reduce risk for you, your company and your clients
- Understand** how contracts can reduce or increase liability and risk
- Review** the law of professional engineering malpractice
- Examine** how to reduce risk by negotiating fair contract terms and utilizing document retention policies
- Consider** what to do when risk results in potential liability
- Assess** how to utilize rules of professional conduct to minimize risk

Continuing Education Credits

Texas Professional Engineers
7.0 PDHs
Including 1.0 Ethics Hour



Faculty

Michael Gerstle *Founding Partner of the Law Firm of Gerstle Snelson, LLP*
Since 1993, Mr. Gerstle has assisted participants in the design and construction industry assess risk, negotiate contracts, handle payment issues, evaluate change order requests, resolve claims, and litigate or arbitrate unresolvable conflicts. A small sampling of the types of matters Mr. Gerstle has recently handled is as follows.

- Negotiation of subcontract terms, conditions and scope for specialty subcontractor
- Clarification of contract type during course of construction on behalf of general contractor
- Evaluation of applicability and allocation of delay damages on active construction project on behalf of design-builder
- Analysis of validity and responsibility for proposed change orders/change order request on behalf of engineer of record
- Evaluation of cause of failure on behalf of construction material manufacturer
- Mediation of multi-party claim involving allegation of improperly designed and installed roof on municipal building on behalf of roofing subcontractor
- Arbitration to award of water intrusion claim on behalf of building owner
- Arbitration to award foundation distress case on behalf of home builder

Mr. Gerstle provides advice, counsel and representation to clients throughout the State of Texas regarding many different types of projects. He has advised clients regarding federal, municipal, industrial, commercial, healthcare, multi-family, and single family residential projects in all the main metropolitan areas and many of the smaller towns and counties in the State. In addition to being a licensed attorney, Mr. Gerstle holds a Professional Engineer's license in the State of New York. He worked as a structural engineer and participated in the design of long-span suspension bridges and hydroelectric power plants. As an engineer, Mr. Gerstle participated in the inspection of construction sites and the monitoring of construction and rehabilitation projects. He also prepared environmental impact and transportation impact studies for private developers and non-profit entities. Mr. Gerstle routinely presents seminars to clients regarding risk management techniques in the construction and design fields. He is a Member of the State Bar of Texas Construction section. Mr. Gerstle has previously held the position of adjunct professor at Texas Wesleyan University, where he taught courses in torts, legal writing, and intellectual property.

Webinar Information

Log into Webinar	Break
8:00 - 8:30 am CDT	11:45 am - 12:45 pm CDT
Morning Session	Afternoon Session
8:30 - 11:45 am CDT	12:45 - 5:00 pm CDT

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James Brandon Pruden *Associate Attorney with Fisk Attorneys*
James Brandon Pruden represents a range of architects, engineers, and other small business owners in professional liability, business, and construction disputes. He thrives on bringing various legal issues to a swift resolution and strongly believes in approaching the practice of law with a focus on client-service and communication, often pursuing creative, efficient and cost-effective solutions to problems. Mr. Pruden coordinates complex multi-party litigation disputes and represents design professionals in the defense of professional claims, project disputes, contract negotiation, fee collection, and board complaint responses. He also works closely with insurance carriers to quickly and economically defend and resolve conflicts, nimbly balancing all parties' interests.

A Midland native, he graduated *cum laude* from Texas A&M University with a bachelor's of science degree in Economics. In college, Mr. Pruden was a member of the Corps of Cadets, the Fightin' Texas Aggie Band, and an active member of Student Bonfire. He received his Juris Doctor degree from Texas Tech University, and served as the president of the Energy Law Society, and as a member of the Federalist Society and American Inns of Court. As a member of the Texas Construction Bar and a National Allied Member of American Institute of Architects, Mr. Pruden is passionate about serving clients within one of the most important sectors of the American Economy.

Olaide A. Banks *Principal Attorney at Olaide A. Banks & Associates, PLLC*
Mr. Banks is the principal attorney at Olaide A. Banks & Associates, PLLC, a Houston-based law firm focused on meeting the needs of government and construction contractors throughout Texas. He is a trusted advisor for licensed professionals, CEOs and managers in construction firms, and government contractors. Mr. Banks was licensed as a CPA in 2003 and has more than 20 years of experience as a lead accountant and CFO for successful government contractors. Mr. Banks is a sought after speaker in the areas of construction law, Federal contract law, and contracts. He earned his B.B.A. degree with a double major in Accounting and Finance from the Bauer College of Business at the University of Houston, and secured his J.D. degree from South Texas College of Law. Mr. Banks is a member of the State Bar of Texas, the Association of Corporate Counsel and the American Institute of Certified Public Accountants (AICPA). Mr. Banks is a member of the Construction Law Section of the State Bar of Texas.

Additional Learning

Managing Construction with AIA Document A201: General Conditions
- Tues, July 20, 2021 | 8:30 am - 4:00 pm CDT

Deep Excavations
- Wed, July 21, 2021 | 8:30 am - 4:30 pm CDT

Technical Writing Workshop for Design Professionals
- Fri, July 23, 2021 | 8:30 am - 5:00 pm CDT

Structural Forensic Engineering
- Tues, July 27, 2021 | 11:00 am - 2:30 pm CDT
- Wed, July 28, 2021 | 11:00 am - 2:30 pm CDT

Architectural Application for Means of Egress in 2018 IBC
- Wed, July 28, 2021 | 9:00 am - 4:30 pm CDT

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Registration

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