CONSTRUCTION CLAIMS
DISPUTES AND LIABILITY

Chaired by
Derek A. Brindle, Q.C.
Singleton Urquhart LLP

April 14th, 2011 • UBC Robson Square • Vancouver, BC
In today’s construction market, conflicts are inevitable and often expensive. As the cost of litigation continues to escalate, a strong understanding of how to minimize and quickly resolve claims is essential to the bottom line.

For industry participants, our focus is to reduce your risk, decrease the amount you spend on legal fees, and ultimately improve your profitability.

For lawyers and risk managers, you will take away the latest on the law, an update on developments in the insurance industry, and tips that you can immediately apply to your practice.

**ISSUES TO BE ADDRESSED:**

- An update on professional liability claims
- Understanding the impact of the green movement, new design technologies and project structuring models
- An update on tendering & procurement – what does Tercon really mean?
- Risk allocation and insurance on construction projects – understanding the policies and project delivery methods
- What are the ramifications of *Progressive Homes*? What are the implications for coverage on construction claims?
- An update on delay claims: What is the new concurrent delay – time, money, both or neither?
- Avoiding, making, and defending contractor claims
- What are the pros and cons of arbitration, mediation and litigation? Considering time and expense, what is the best approach for your claim?

**WHO SHOULD ATTEND:**

- Construction contractors
- Lawyers
- Insurance professionals
- Risk managers
- Project Managers
- Design Professionals
- Developers

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**JOIN CANADA’S TOP EXPERTS**

**CHAIR**

Derek A. Brindle, Q.C., Senior Counsel, Singleton Urquhart LLP, Vancouver, BC. Mr. Brindle is experienced counsel in major litigation, arbitration, and in alternate dispute resolution involving commercial claims and complex construction and engineering disputes. He regularly represents owners, construction participants, design professionals and insurers in construction law matters. He acts as an arbitrator and in mediations involving construction and insurance disputes. Mr. Brindle has a diversified commercial and insurance law practice. He is listed in the Best Lawyers in Canada. He has been appointed Queen’s Counsel in 2001 and is a Governor of the Canadian College of Construction Lawyers. In addition, Mr. Brindle writes and lectures extensively on construction law and the industry.

**FACULTY**

**Maurice Audet**, Senior Vice President and Senior Account Manager, AON Insurance Brokers and Risk Consultants, Toronto, ON. Mr. Audet has extensive experience in various insurance aspects of major construction projects and has an extensive (non-lawyer’s) understanding and knowledge of insurance law, particularly in connection with the construction industry. He has published numerous articles on various aspects of property and casualty insurance law and has spoken at a number of conferences and seminars.

**Donald I. Brenner, Q.C.**, Brenner ADR, Vancouver, BC. Mr. Brenner’s practice is focused on dispute resolution using mediation and arbitration. He provides advice to both lawyers and clients. Mr. Brenner joined the Supreme Court of British Columbia in 1992 where he participated in and led a number of court committees dealing with technology, court administration and reforms to the justice system. After his appointment as Chief Justice in 2000, Mr. Brenner continued to sit as a trial judge hearing cases principally in the areas of commercial insolvency, corporate reorganization, and class actions until his resignation in September 2009. Mr. Brenner is a Director and Vice Chair of the Vancouver Foundation. Since 2008, he has also chaired the Rhodes Scholarship selection committee for British Columbia.

**David I. Bristow, Q.C.,** L.S.M, C.Arb, Team Resolution, Toronto, ON. Mr. Bristow provides alternative dispute resolution services consisting of mediations, arbitrations, early neutral evaluation, mini-trials, med-arb and private appeals from arbitral awards and trial judgments in civil actions. He is the former head of the construction law group at Fraser Milner Casgrain, and is the co-creator of the leading text on the subject of construction law in Canada. Mr. Bristow’s recent mediation and arbitration activities include the Confederation Bridge from New Brunswick to PEI, the Windsor Detroit Tunnel, the Halifax International Airport, major highway projects in Canada, construction of a major power plant, stadiums, ocean cargo-leading equipment, diamond vendors, hotels, nickel mines, a nuclear power plant in China, and oil drill rigs in Cuba. Mr. Bristow is a prolific author and frequent lecturer in Canada, the United States, Cuba, Barbados and Mexico.

**W. Donald Goodfellow, Q.C.,** C.Arb, Partner, W. Donald Goodfellow, Barristers, Solicitors, and Notaries Public, Calgary, AB. Mr. Goodfellow is a litigator conducting a civil litigation practice in Alberta, BC, Yukon and Northwest Territories, as well as occasional appearances in Manitoba, Saskatchewan and Ontario. He was Counsel for M.J.B. Enterprises Ltd. which was the successful party before the Supreme Court of Canada in establishing the landmark decision as to the obligation of those who call for tenders. Mr. Goodfellow has recently had two cases before the Supreme Court of Canada involving construction matters. He has also written and spoken extensively on the topic of construction law.

**Gordon Hilliker, Q.C.,** Vancouver, BC. Mr. Hilliker has practised insurance law since 1977. He is the author of Liability Insurance Law in Canada, which is now in its 4th edition and Insurance Bad Faith, which is in its 2nd edition. Mr. Hilliker was counsel for the petitioner in the recent Supreme Court of Canada decision in *Progressive Homes Ltd.* v. *Lombard General Insurance Company of Canada*.

**John S. Logan, Partner, Jenkins Marzban Logan LLP,** Vancouver, BC. Mr. Logan restricts his practice to construction and commercial litigation and alternate dispute resolution. He has been counsel on a multitude of complex construction, development, banking and leasing cases in the British Columbia Supreme Court and Court of Appeal. He is frequently asked to act as a mediator, arbitrator or referee in commercial and construction disputes. He is a member of a variety of construction and development industry and legal associations. He is a frequent lecturer and author on a variety of commercial and construction law issues.

**Christopher J. O’Connor, Q.C.,** C.Arb., FCIArb, Partner, Borden Ladner Gervais LLP, Vancouver, BC. Mr. O’Connor has extensive experience in advising owners and contractors with respect to construction disputes, delay claims and all forms of construction disputes. He has partaken in major matters such as the Lions Gate Bridge Re-Decking, the Millennium Line and the construction of the first ALRT guideway. Mr. O’Connor is a Fellow of the Institute of Chartered Institute of Arbitrators (London), a Fellow of the Canadian College of Construction Lawyers and a founding Governor of the College.

**John R. Singleton Q.C.,** Partner, Singleton Urquhart LLP, Vancouver, BC. Mr. Singleton has practised law since 1969. He has concentrated on the areas of insurance, construction, professional liability and environmental matters. He has acted as counsel in several precedent-setting cases involving insurers, architects, engineers and other participants in the construction industry and has been counsel on a wide variety of problems related to environmental issues. Mr. Singleton is also a charter arbitrator and mediator of complex commercial disputes, and is actively involved in both mediation and arbitration on behalf of his own clients and as a mediator/arbitrator retained by others. He also acts as a fairness advisor/monitor of procurement activities in a variety of settings.

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**REGISTER TODAY!**

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**Construction Claims Disputes and Liability**

**8:30 Welcome and Introduction**
Derek A. Brindle, Q.C.
Singleton Urquhart LLP

**8:40 Professional Liability Claims**
John R. Singleton, Q.C.
Singleton Urquhart LLP
- The green building industry presents new and challenging liability issues for the design professional. These remind one of the adage ‘look before you leap’
- Become familiar with new design technologies and project structuring models such as BIM and IPD and get ahead of the pack

**9:25 Questions and Discussion**

**9:35 Tendering & Procurement**
W. Donald Goodfellow, Q.C.
W. Donald Goodfellow, Barristers, Solicitors, and Notaries Public
- Rights and obligations of owners to contractors, contractors to owners, contractors to subcontractors, and subcontractors to owners
- Damages for breach of Contract A
- Bid shopping
- What does the Tercon case really mean?

**10:20 Questions and Discussion**

**10:30 Refreshment Adjournment**

**10:45 Risk Allocation and Insurance on Projects & The Legacy of Progressive Homes v. Lombard**
Gordon Hilliker, Q.C.  Maurice Audet
Barrister and Solicitor  AON Insurance Brokers and Risk Consultants
- Overview of various policies and project delivery methods
- Minimizing and allocating risk
- Dealing with claims under policies
- The Supreme Court of Canada has swept away the third party property myth, done away with the indivisible work/product doctrine, eliminated the ‘no coverage for pure economic loss’ argument and cleared up the ‘faulty workmanship is not an accident’ misconception. What are the implications for coverage for construction claims?

**11:45 Questions and Discussion**

**12:00 Luncheon Adjournment**

**1:30 A New Look at Delay Claims**
Christopher J. O’Connor, Q.C.
Borden Ladner Gervais LLP
- Bringing a new perspective to an old topic
- What is the impact in Canada of the UK law of Time at Large?
- Do the American styled forensic delay analysis have any place in delay claims in Canada?
- What is the new concurrent delay – time, money, both or neither?

**2:15 Questions and Discussion**

**2:25 Contractor Claims**
John S. Logan
Jenkins Marzban Logan LLP
- Avoiding claims against contractors
- Making claims against contractors
- Successfully defending claims against contractors

**3:10 Questions and Discussion**

**3:25 Refreshment Adjournment**

**3:40 Arbitration & Mediation of Construction Law Suits**
David I. Bristow, Q.C.  Donald I. Brenner, Q.C.
Team Resolution  Brenner ADR
- A comparison of litigation, mediation and arbitration respecting quality, time and expense
- Understanding the pros and cons
- What is the best approach for your claim?

**4:40 Questions and Discussion**

**4:55 Chair’s Closing Comments**

**5:00 Conference Concludes**
**Four Ways to Register:**
1. Telephone us: 604-730-2500 or toll free 877-730-2555
2. Fax us: 604-730-5085 or toll free 866-730-5085
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**Registration:** The registration fee is $650.00 plus HST of $78.00 totalling $728.00 covering your attendance at the conference, written materials, a light breakfast and refreshments during the day.

**Payment:** You may pay by VISA, MasterCard or cheque. Cheques should be made payable to the Pacific Business & Law Institute. Registration fees must be paid prior to the conference.

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- Brochure
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- Colleague
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**When and Where:** Check-in begins at 8:00 a.m. The conference starts at 8:30 a.m. UBC Robson Square is located at 800 Robson Street, Vancouver, BC.

**Materials:** The faculty will prepare papers and/or other materials explaining many of the points raised during this conference. Please contact us if you are unable to attend the conference and wish to purchase a set of materials.

**Cancellations:** Full refunds will be given for cancellations if notice is received in writing five full business days prior to the conference (April 6th, 2011). After that time we are unable to refund registration fees. Substitutions will be permitted. We reserve the right to cancel, change or revise the date, faculty, content or venue of this event.

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