

# Agenda

**Distinguishing between Construction Defects and Failures** *A. Nahmias*

- Defining defects
  - Causes of defects: problems with design, materials and/or construction
- Defining failures
  - Causes of failures: deterioration, unintended use, “Acts of God”

**Examining Common Defects and Failures** *R. Woolf, J. Davis*

- Analyzing defects and failures for methodology and causality
  - Site selection and engineering
  - Building design
  - Foundation design and construction
  - Design and construction of floors, walls and roofing
  - Exploring defects and failures in mechanical and electrical systems

**Adopting Practices that Reduce Defects and Failures** *S. Frick*

- Reviewing proposed use and preparing construction documents
  - Owner warranty of construction documents
  - Discovering errors in construction documents prior to commencement of building activities
  - Discovering errors in construction documents during construction
- Inspections and testing
- Architect/engineer liability
- Preserving and documenting claims

**Handling Ethical Issues Associated with Defects and Failures** *S. Frick*

- Ethical rules impacting attorneys that construction professionals should be aware exist
- Conflicts of interest
- Attorney’s fees
- Lawyer liability
- Ethical problems concerning use of email
- Preservation of records

**Understanding and Preventing Disputes Generated by Defects and Failures** *J. Getz*

- Identifying parties with potential liability
- Understanding theories of liability
- Identifying defenses to liability
  - Timeliness, contractual defenses, crossclaims and counterclaims

**Participating in Conflict Resolution Procedures** *S. Barton*

- Mediation, arbitration, litigation
- Reviewing types of damages and how they are calculated

**Understanding Insurance Coverage Issues** *M. Less, B. Siler*

- Commercial general insurance coverage for defects and failures
- Design professional liability insurance coverage
- Insurance carrier duty to defend

Preventing and Addressing Construction Defects and Failures  
Memphis, TN - Monday, May 14, 2018

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## Learning Objectives

**You’ll be able to:**

- Define** various causes of construction defects and failures.
- Explore** common defects and failures in mechanical and electrical systems.
- Adopt** practices that reduce defects and failures.
- Examine** ethical issues associated with defects and failures.
- Identify** parties with potential liability.
- Review** types of damages and how they are calculated.



## Preventing and Addressing Construction Defects and Failures

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- |                                                                   |                                                                          |
|-------------------------------------------------------------------|--------------------------------------------------------------------------|
| <b>Distinguish</b> between construction defects and failures      | <b>Understand</b> and prevent disputes generated by defects and failures |
| <b>Analyze</b> defects and failures for methodology and causality | <b>Learn</b> about types of conflict resolution procedures               |
| <b>Review</b> proposed use and preparing construction documents   | <b>Discuss</b> insurance coverage issues                                 |

**Continuing Education Credits**

- |                                                                          |                                                 |
|--------------------------------------------------------------------------|-------------------------------------------------|
| <b>Engineers</b><br>7.0 HSW CPE Hours/PDHs                               | <b>Contractors</b><br>Non-Credit Continuing Ed. |
| <b>Architect</b><br>7.0 HSW CPE Hours/CE Hours<br>7.0 AIA Learning Units |                                                 |





**Adam Nahmias**  
*Partner at Libby and Nahmias, in Memphis*  
Adam M. Nahmias graduated from the University of Alabama in 1990, and the University of Memphis School of Law in 1993. He is a member of the Memphis and Tennessee Bar Associations. Since his admission to practice, Mr. Nahmias has represented clients in all facets of the construction industry, including design professionals, owners, general contractors, subcontractors and suppliers.

**Richard Woolf**  
*Partner at Williams Venker & Sanders LLC, St. Louis, Missouri*  
Mr. Woolf is a knowledgeable litigator with a strong understanding of the law and a knack for strategic, outside-the-box thinking when it comes to analyzing civil lawsuits he practices in both state and federal courts in Missouri, Tennessee and Illinois. Mr. Woolf has tried numerous cases as both first and second chair and has repeatedly obtained favorable results for his clients. He has experience representing both defendants and plaintiffs allowing him to provide his clients with a unique perspective and valuable insight. Mr. Woolf has extensive experience handling construction defect cases, defending both general contractors and subcontractors. He is a big fan of the Tennessee Titans and all sports associated with the University of Tennessee.

**Joshua Davis**  
*Attorney at Williams Venker & Sanders LLC in St. Louis, Missouri*  
Mr. Davis is a seasoned litigator who practiced for several years with large litigation firms in St. Louis, where he honed his trial skills and focused his practice on transportation, product liability, and fire and explosion litigation. He has represented both plaintiffs and defendants in complex litigation matters, including multi-vehicle transportation accidents, catastrophic fire cases, wrongful death products liability cases, severe injury premise liability matters, and high exposure insurance coverage cases. He prides himself on early

## Seminar Information

|                                                                                                             |                                            |
|-------------------------------------------------------------------------------------------------------------|--------------------------------------------|
| <b>Crowne Plaza Downtown</b><br>300 North 2nd Street<br>Memphis, TN 38105<br>(901) 525-1800                 | Registration<br>8:00 - 8:30 am             |
|                                                                                                             | Morning Session<br>8:30 - 11:45 am         |
|                                                                                                             | Lunch (On your own)<br>11:45 am - 12:45 pm |
| <b>Tuition</b><br><b>\$279</b> for individual registration<br><b>\$259</b> for three or more registrations. | Afternoon Session<br>12:45 - 5:00 pm       |

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**Cancellations:** Cancel at least 48 hours before the start of the seminar, and receive a full tuition refund, minus a \$39 service charge for each registrant. Cancellations within 48 hours will receive a credit toward another seminar or the CD/manual package. You may also send another person to take your place.

case assessment and evaluation and strives to provide a detailed evaluation of potential exposure coupled with recommendations for future handling and strategies for resolution as soon as possible after receiving any assignment. Drawing from actual trial experience as both lead trial attorney and as second chair, Mr. Davis is able to provide a comprehensive set of litigation skills, aggressively representing client interests while balancing the client's financial realities and unique business interests.

**Scott Frick** *The Frick Law Firm, PLLC in Memphis*  
Mr. Frick is the founding member of The Frick Law Firm, PLLC. His main areas of practice include construction law, general commercial litigation and bankruptcy law. Mr. Frick received his B.A. degree from Vanderbilt University and his J.D. degree from the University of Mississippi School of Law. He is a member of the Memphis and Tennessee bar associations.

**Joseph Getz** *Shareholder at Evans Petree PC in Memphis*  
Mr. Getz leads the Construction and Surety Law Practice Group and has focused his practice exclusively on construction and surety bond contract claims for more than 25 years. He has worked on contract negotiations, insurance requirements, surety bonding issues, LEED certification, CPM scheduling and delay analysis claims, change orders, defective and nonconforming work, differing site conditions, warranty issues, mechanics and material men's lien claims and project close-out issues. Mr. Getz's representation experience includes multipurpose sports arenas, public university facilities, multifamily residential developments, office buildings, government facilities, hotels, industrial and process manufacturing and design build industrial contracting and development. Mr. Getz has been a Super Lawyer in the field of construction law for six years and was recently selected by his peers for inclusion in *The Best Lawyers in America* 2015 in the fields of Construction Law and Litigation.

### Continuing Education Credit Information

This seminar is open to the public and offers 7.0 HSW continuing professional education hours to engineers and architects in Tennessee and all other states, except Florida architects. Educators and courses are not subject to preapproval in Kentucky.

This event is approved by the American Institute of Architects Continuing Education System for 7.0 HSW Learning Units (Sponsor No. J885). Only full attendance can be reported to the AIA/CES.

This course includes one hour of ethics, which can be used in states with an ethics requirement.

HalfMoon Education is deemed an approved architect continuing education sponsor in New York. HalfMoon Education is an approved continuing education sponsor for engineers in Florida, Indiana, Louisiana, Maryland, New Jersey (Approval No. 24GP00000700), New York (NYSed Sponsor No. 35), North Carolina, and North Dakota.

This seminar offers a non-credit continuing education opportunity to construction contractors. It is not approved by any state licensing entity for contractor continuing education credit.

Attendance will be monitored and attendance certificates will be available after the seminar for most individuals who complete the entire event. Attendance certificates not available at the seminar will be mailed to participants within fifteen business days.

**Stephen Barton** *Shareholder at Lewis Thomason, in Memphis*  
Mr. Barton's practice areas include construction litigation, construction law, workers' compensation, premises liability and employment litigation. Mr. Barton received a B.A. degree from the University of Mississippi and a J.D. degree from Georgia State University. He is a member of the Memphis, Tennessee and American bar associations, and is admitted to practice law in Georgia and Tennessee. Mr. Barton has tried numerous civil and criminal matters to verdict in the state and federal courts of Tennessee.

**Mike Less** *Attorney at Butler Snow in Memphis*  
Mr. Less is the Chair of the Butler Snow Task Force for the Construction Industry and concentrates his practice in all aspects of Construction Law, including drafting and negotiating design contracts, construction contracts, and various other construction industry related agreements. He provides legal problem solving advice to clients while projects are under construction and represents clients in disputes, both in court and alternative dispute resolution. Mr. Less has been involved with numerous private and public projects serving as counsel for public and private owners, contractors, subcontractors, design professionals, financial institutions, insurance companies and sureties. He has also served as a mediator and an arbitrator.

**Brent Siler** *Attorney at Butler Snow in Memphis*  
Mr. Siler represents and defends clients in all areas of employment litigation including discrimination, harassment, retaliation lawsuits, whistleblower, wage and hour, ERISA, defamation, and workers' compensation matters. He earned his B.A. degree in Criminal Justice from the University of Memphis in 1998, and his J.D. degree from the University of Memphis, in 2002. He is licensed to practice in Tennessee and Mississippi and is a frequent speaker and presenter on labor and employment issues.

## Additional Learning

### May Webinar Series

#### Complying with Fire and Building Codes

- **Introduction to Fire Protection and Life Safety Design**  
Thurs., May 3, 2018, 11:00 AM - 12:30 PM CDT
- **Occupancy Classifications**  
Thurs., May 3, 2018, 1:00 - 2:30 PM CDT
- **Means of Egress**  
Fri., May 4, 2018, 11:00 AM - 1:00 PM CDT
- **Fire Protection Features and Occupancy Exercises**  
Fri., May 4, 2018, 1:30 PM - 3:30 PM CDT

For more information visit:  
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**Can't Attend? Order the CD/Manual Package:**  
An audio recording of this seminar is available for \$289 (including shipping). Allow five weeks from the seminar date for delivery. Please refer to specific state licensing rules or certification requirements to determine if this learning method is eligible for continuing education credit.

## Registration

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| How to Register                                                                          |  | Registrant Information                                                                                                                                              |
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|                                                                                          |  | Phone: _____                                                                                                                                                        |
|                                                                                          |  | Name: _____                                                                                                                                                         |
|                                                                                          |  | Occupation: _____                                                                                                                                                   |
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### Tuition

- ( ) **I will be attending the live seminar.** Single Registrant - **\$279.00**. Three or more registrants from the same company registering at the same time - **\$259.00** each.
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