

Agenda

Applying Risk Management Principles to the Practice of Engineering

M. Drerup

Identifying engineering risks
Reviewing consequences of potential risks
Understanding principles of risk management
Implementing strategies to minimize engineering risk and maximize positive results

Understanding How Contracts Can Reduce (or Increase) Risk

K. Holland

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

- Guarantees, warranties and indemnities

Understanding consequences for delay, disruption, nonperformance, inadequate performance
Using contract terms to manage risk

Adopting Strategies to Minimize Professional Liability Risk

J. Smith

Understanding causes of professional liability claims
Parties who can bring a claim for professional negligence
Understanding the standard of care Understanding the law of damages
Adopting strategies to minimize liability risk

Minimizing Risk by Maximizing Compliance with Rules of Professional Conduct and Ethics

R. Kelly

Complying with rules of professional conduct

- Objectivity and truthfulness
- Competency
- Confidentiality

Preventing conflicts of interest
Complying with rules on sealing of documents and plans
Preventing the unauthorized practice of engineering
Discussion of ethics hypotheticals/case studies

Types of Claims Against Engineers

A. Mullins,
C. Sinks

Negligence/tort claims

- Duty, Breach of duty, proximate causation, apportioning liability and damages

Contract claims
Damages

- Tort damages
- Contract damages

Miscellaneous issues that commonly arise

Managing Risk with General Liability and Professional Liability Insurance Coverage

C. Sinks,
A. Mullins

Coverage provided by general liability vs. professional liability policies
Certificates of insurance and additional insureds

- Indemnities
- Assignment
- Insurance availability
- Insurance policies

Warranties, guarantees and certifications
Recognizing and responding to design professional claims

Managing Engineering Liability and Risk

Fairfax, VA - Thursday, May 23, 2019

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Learning Objectives

You'll be able to:

Apply risk management principles to the practice of engineering.

Implement strategies to minimize engineering risk and maximize positive results.

Learn how contract terms can be used to manage risk.

Reduce risk and liability by complying with rules of professional conduct and ethics.

Avoid claims that are most commonly brought against engineers.

Distinguish between liability coverage provided by general vs. professional liability insurance policies.



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Apply risk management principles to the practice of engineering

Examine how contracts can reduce or increase risk

Adopt strategies to minimize professional liability risk

Understand the types of claims that can be brought against engineers

Minimize risk by maximizing compliance with rules of professional conduct and ethics

Learn how to manage risk with general liability and professional liability insurance coverage

Continuing Education Credits

Professional Engineers

6.5 Continuing Ed. Hours,
Including 1.0 Ethics Hour



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Faculty

Michael J. Drerup, P.E., F.ASCE, has nearly 20 years of structural engineering and building technology experience, with an emphasis on the performance, maintenance, repair, and retrofit of existing buildings and structures. He has planned and directed field and laboratory studies to evaluate the performance and durability of a variety of building systems, components, and materials, including structural systems, facades, and flooring. He has also investigated numerous damage claims resulting from a variety of natural and man-made causes, including earthquakes, weather events, explosions, fire, impact, construction activities, and defective design or construction. He has served on ASCE's Technical Council on Forensic Engineering for 13 years, and recently completed his term as Council chair. During that time, he has led the development of continuing education seminars for engineers and architects, chaired ASCE's Fifth Congress on Forensic Engineering in Washington, DC, and served on the steering committee for the Sixth Congress in San Francisco. Mr. Drerup has also represented ASCE internationally, including two sponsored trips to forensic engineering conferences in India, and collaboration with the Institution of Forensic Engineers in the United Kingdom. He has served as a reviewer for ASCE's *Journal of Performance of Constructed Facilities* for more than 10 years, and was guest editor for a special topic issue on non-destructive evaluation of existing buildings and infrastructure. Mr. Drerup regularly publishes and presents on a range of topics including technical issues, professional practice, and architectural and engineering history.

J. Kent Holland, J.D. is a construction lawyer located in Tysons Corner, Virginia. He represents design professionals, contractors and project owners. He is also founder and president of a risk management consulting firm, ConstructionRisk, LLC, providing risk management consulting services to owners, design professionals, contractors and attorneys on construction projects. This includes assistance with contract drafting, review and negotiation; change order and claims analysis (preparation or defense); risk management advice concerning insurance coverage – including assistance with negotiating and drafting the terms and conditions of policies and endorsements; advice to insurance underwriters; and guidance to those procuring insurance.

Jason N. Smith *Partner at Seyfarth Shaw LLP, Washington D.C.*
Mr. Smith is co-chair of the Washington, D.C. Litigation Practice Group. His practice focuses on the representation of owners, design-builders, design professionals, construction managers, and general contractors in all phases of the construction process. Mr. Smith's pre-construction experience includes drafting and negotiating construction, construction management, and design agreements. Mr. Smith assists clients with pursuing their rights through litigation and alternative dispute resolution. His litigation experience includes all manner of construction and design disputes, including impact and delay claims, construction and design defects, differing site conditions, design negligence, terminations for default, change order and extra work disputes, requests for equitable adjustments, payment and performance bond claims, mechanics' liens, prompt payment and conditional payment disputes, and bid protests. Mr. Smith has substantial experience arbitrating and litigating design and construction claims, with a proven track record of success.

Seminar Information

Hilton Garden Inn Fairfax
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Tuition
\$289 for individual registration
\$269 for three or more registrants from the same company at the same time.

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He is an advocate for early case assessment and mediation, and he has successfully resolved numerous claims through mediation. Mr. Smith has represented clients in state courts throughout the United States, federal courts, the U.S. Court of Federal Claims, the American Arbitration Association, and in several non-administered arbitrations.

Robert N. Kelly *Director, Jackson & Campbel, P.C., Washington D.C.*
Mr. Kelly's practice has concentrated on the counseling and defense of clients in litigation arising out of construction defect and delay claims, professional liability claims, environmental and toxic tort disputes and pharmaceutical product liability claims. He also assists insurance companies in resolving coverage questions arising under general liability policies, and he represents insurers in coverage litigation. Mr. Kelly speaks and publishes frequently on litigation and insurance coverage topics. He authors and provides annual updates to the chapters on District of Columbia law in the highly-regarded *Tort Law Desk Reference* and the *Product Liability Desk Reference*. He has been appointed a fellow of the American Bar Foundation, and has received the coveted "SuperLawyer" designation for Washington, DC, in the field of professional liability defense. Mr. Kelly's education includes a BSE degree in Civil Engineering from Princeton University.

Allison R. Mullins *Partner at Rich Rosenthal Brincefield Manitta Dzubin & Kroeger, LLP, McLean, VA*
Ms. Mullins focuses her practice on all aspects of commercial dispute resolution. She often represents architects, engineers, and others involved in the construction industry. Ms. Mullins received her J.D. degree from Roger Williams University School of Law in Bristol, Rhode Island. She started her legal career as a contracts manager and in-house counsel at a large architectural firm in Northern Virginia. Ms. Mullins is admitted to practice in Virginia, Maryland and the District of Columbia. She is on the Board of Governors of, and she is the membership chairperson of, the Virginia State Bar Construction and Public Contracts Law Section. Ms. Mullins is an allied professional member of the American Institute of Architects, Northern Virginia and District of Columbia Chapters. She is an author/co-author of several industry periodicals, as well as a frequent presenter.

Cady Sinks *Senior Broker, Ames & Gough, Washington, D.C.*
Ms. Sinks is a senior broker in Ames & Gough's McLean, Virginia office. She joined the firm in 2016 and is responsible for evaluating clients' risks, as well as all aspects of their insurance renewal process. She is directly involved in the placement of all commercial coverage lines, including property/casualty, professional liability, and management liability. Before joining Ames & Gough, Ms. Sinks was a director in Clark Construction Group, LLC's Risk Management program from 2013 to 2016. Earlier, she was with Victor O. Schinnerer from 2004 to 2013, where she held positions of increasing responsibility during her tenure. She began as an associate account executive and ultimately became associate vice president and program manager. Ms. Sinks earned B.A. degrees in Economics and English from The University of Virginia, where she was a GEICO Jack & Dorothy Byrne Academic Scholarship winner. She also earned an M.S. degree in Insurance Management from Boston University.

Continuing Education Credit Information

This seminar is open to the public and offers 6.5 continuing education hours to engineers in most states. Educators and courses are not subject to preapproval in Virginia.

This course contains 1.0 hour of ethics instruction. Ethics is an allowable, but not required, topic in Virginia. It will meet the ethics requirement mandated in some other states. Refer to specific state rules to determine eligibility.

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

Registration
Managing Engineering Liability and Risk

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Tuition

- () **I will be attending the live seminar.** Single Registrant - **\$289.00**. Three or more registrants from the same company registering at the same time - **\$269.00** each.
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