



# NYSBACLE

Friday, May 5, 2006  
*Buffalo*

Friday, May 12, 2006  
*New York City*

Friday, May 12, 2006  
*Syracuse*

Friday, May 19, 2006  
*Albany*

Friday, May 19, 2006  
*Uniondale, L.I.*

MCLE Credits —  
See "Program  
Description" on  
next page for  
more details.



includes  
1.0 ethics credit

## Commercial Lines: Coverage for the Construction Defect Claim

**Register Early, Save Money,  
and Guarantee Your Seat  
at the Program!!!**

Co-sponsored by the Torts, Insurance  
and Compensation Law Section and  
the Committee on Continuing Legal  
Education of the New York State  
Bar Association



# Program Description

Construction defect litigation-claims involving damage to property resulting from faulty or defective construction practices-is on the rise. Such claims often involve damage to the work itself, as well as damage to the property of others, and therefore implicate multiple lines of insurance coverage. The purpose of this seminar is to provide you with an overview of the claims, and the various types of coverage that may be called upon to respond to these losses. The seminar will take a case study approach to the problem by addressing the most significant coverage issues among the various coverages implicated through the use of a commonly encountered hypothetical claim.

A bound coursebook prepared especially for the seminar will be distributed to registrants at the seminar.

The New York State Bar Association's Committee on Continuing Legal Education has been certified by the New York State Continuing Legal Education Board as an Accredited Provider of continuing legal education in the

State of New York. We will gladly assist attorneys admitted in New York and those admitted in other MCLE states in obtaining MCLE credit for attending this program.

Under New York's MCLE Rules, this program has been approved for credit for all attorneys, including those who are newly admitted (less than 24 months). This basic-level course may be used for New York MCLE credit consisting of 1.0 credit hour in ethics, and 5.5 credit hours in practice management and/or areas of professional practice; for a total of 6.5 credit hours.

The New York State Bar Association certifies that this program has been approved for MCLE credit by the State Bar of California in the amount of 5.0 hours, of which 1.0 will apply to ethics, and by the Pennsylvania Continuing Legal Education Board for 4.0 hours of substantive law and 1.0 hour of ethics. All inquiries regarding mandatory continuing legal education credits may be directed to (518) 487-5586.

## Important notice—partial credit for program segments not allowed:

In the fall of 2001, the New York State Continuing Legal Education Board revised its Regulations and Guidelines. Under those revisions, attendees at CLE programs cannot get MCLE credit for a program segment (typically, a lecture

or panel, of which there are usually several in a program) unless they are present for the entire segment. Therefore, persons who arrive late, depart early, or are absent for any portion of the segment will not receive credit for that segment.

# Agenda

8:30-9:00 a.m. **REGISTRATION** (outside of the meeting room)

9:00-9:10 **WELCOME AND INTRODUCTION**

9:10-9:35

## I. PROGRAM OVERVIEW

- A. Claims Resulting from Construction Defects
- B. Insurance Policies Implicated by Construction Claims
- C. Presentation of Hypothetical

**Speakers:** Sarah J. Delaney, Esq. (Buffalo); Patti F. Potash, Esq. (New York City); Timothy J. Perry, Esq. (Syracuse); Jean F. Gerbini, Esq. (Albany); Joel A. Sweetbaum, Esq. (Uniondale, LI)

9:35-10:25

## II. COMMERCIAL GENERAL LIABILITY POLICIES PART I-PROPERTY DAMAGE CLAIMS

- A. Covered Property Damage
- B. Occurrences within Coverage
- C. Progressive Losses-Triggers of Coverage, Numbering of Occurrences and Allocation Among Successive Policy Periods
- D. Known Loss
- E. Business Risk Exclusions

**Speakers:** Kevin D. Szczepanski, Esq. (Buffalo); Patrick M. Tomovic, Esq. (Buffalo); Judith F. Goodman, Esq. (New York City); Stephen M. Lazare, Esq. (New York City); Thomas R. Smith, Esq. (Syracuse); Matthew S. Lerner, Esq. (Albany); Joan M. Gilbride, Esq. (Uniondale, LI)

10:25-10:35 **COFFEE BREAK**

10:35-11:00

## II. (CONTINUED) COMMERCIAL GENERAL LIABILITY POLICIES PART I-PROPERTY DAMAGE CLAIMS

**Speakers:** Kevin D. Szczepanski, Esq. (Buffalo); Patrick M. Tomovic, Esq. (Buffalo); Judith F. Goodman, Esq. (New York City); Stephen M. Lazare, Esq. (New York City); Thomas R. Smith, Esq. (Syracuse); Matthew S. Lerner, Esq. (Albany); Joan M. Gilbride, Esq. (Uniondale, LI)

11:00-11:25

## III. COMMERCIAL GENERAL LIABILITY POLICIES PART II-BODILY INJURY CLAIMS

- A. Employers Liability and Contractually Assumed Liability Exclusions
- B. Workers Compensation

**Speakers:** Audrey A. Seeley, Esq. (Buffalo); Judith F. Goodman, Esq. (New York City); Stephen M. Lazare, Esq. (New York City); Paul J. Callahan, Esq. (Syracuse); Carolyn B. George, Esq. (Albany); Elizabeth Fitzpatrick, Esq. (Uniondale, LI)

11:25-12:15 p.m.

## IV. COMMERCIAL GENERAL LIABILITY POLICIES-PASS THROUGH

- A. Additional Insureds
- B. Contractual Indemnification and Supplementary Payments Provisions
- C. Priority Disputes
- D. Contribution and Subrogation
- E. Anti-Subrogation Rule

**Speakers:** Anthony J. Piazza, Esq. (Buffalo); Alan C. Eagle, Esq. (New York City); James J. Gascon, Esq. (Syracuse and Albany); Neil L. Sambursky, Esq. (Uniondale, LI)

12:15-1:15 p.m. **LUNCH** (on your own)

1:15-2:05

## V. ETHICAL CONSIDERATIONS

- A. Selection of Counsel
- B. Effects of Insured-Insurer Relationship on Ethical Constraints
- C. Conflicts of Interest

**Speakers:** Laurie A. Giordano, Esq. (Buffalo); Patti F. Potash, Esq. (New York City); Alan J. Pierce, Esq. (Syracuse); Linda J. Clark, Esq. (Albany); Michael A. Miranda, Esq. (Uniondale, LI)

2:05-2:20 **COFFEE/SOFT DRINK BREAK**

2:20-3:10

## VI. COMMERCIAL PROPERTY AND BUILDERS RISK POLICIES

- A. Property Covered
- B. Covered Causes of Loss/Excluded Perils
- C. MOLD/EFIS

**Speakers:** Thomas P. Cunningham, Esq. (Buffalo); Gilbert M. Coogler, Esq. (New York City); Timothy J. Perry, Esq. (Syracuse); Edward J. Sheats, Jr., Esq. (Albany); Monte E. Sokol, Esq. (Uniondale, LI)

3:10-4:00

## VII. OTHER POLICIES AVAILABLE FOR CONSTRUCTION DEFECT CLAIMS

- A. E & O Policies
- B. Professional Service Exclusion in CGL Policies
- C. Owners, Contractors and Protective Policies
- D. Wrap-Up Plans

**Speakers:** Eileen E. Buholtz, Esq. (Buffalo); Daniel W. Gerber, Esq. (New York City); James G. Stevens, Jr., Esq. (Syracuse); Edward J. Sheats, Jr., Esq., Jean F. Gerbini, Esq. (Albany); Richard S. Sklarin, Esq. (Uniondale, LI)

4:00 p.m.

**ADJOURNMENT**

# Program Faculty

**Overall Planning Chair**  
Kevin T. Merriman, Esq.  
Goldberg Segalla LLP  
Buffalo

**Local Panels**

**Buffalo:** Kevin T. Merriman, Esq. (Chair), Goldberg Segalla LLP, Buffalo \* Eileen E. Buholtz, Esq., Connors & Corcoran, LLP, Rochester \* Thomas P. Cunningham, Esq., Rupp, Baase, Pflanzgraf, Cunningham & Coppola LLC, Buffalo \* Sarah J. Delaney, Esq., Goldberg Segalla LLP, Buffalo \* Laurie A. Giordano, Esq., Wolford & Leclair LLP, Rochester \* Anthony J. Piazza, Esq., Hiscock & Barclay, LLP, Rochester \* Audrey A. Seeley, Esq., Hurwitz & Fine, P.C., Buffalo \* Kevin D. Szczepanski, Esq., Hodgson Russ LLP, Buffalo \* Patrick M. Tomovic, Esq., Hodgson Russ LLP, Buffalo.

**New York City:** Patti F. Potash, Esq. (Chair), White Fleischner and Fino, LLP, New York City \* Gilbert M. Coogler, Esq., White Fleischner & Fino, LLP, New York City \* Alan C. Eagle, Esq., Rivkin Radler, LLP, Uniondale \* Daniel W. Gerber, Esq., Goldberg Segalla LLP, Buffalo \* Judith F. Goodman, Esq., Goodman & Jacobs LLP, New York City \* Stephen M. Lazare, Esq., Lazare Potter Giacomos & Kranjac LLP, New York City.

**Syracuse:** Timothy J. Perry, Esq. (Chair), The Sugarman Law Firm, LLP, Syracuse \* Paul J. Callahan, Esq., Law Offices of Sliwa & Lane, Buffalo \* James J. Gascon, Esq., Costello Cooney & Fearon, PLLC, Syracuse \* Alan J. Pierce, Esq., Hancock & Estabrook, LLP, Syracuse \* Thomas R. Smith, Esq., Bond, Schoeneck & King, PLLC, Syracuse \* James G. Stevens, Jr., Esq., The Sugarman Law Firm LLP, Syracuse.

**Albany:** Jean F. Gerbini, Esq. (Chair), Whiteman Osterman & Hanna LLP, Albany \* Linda J. Clark, Esq., Hiscock & Barclay LLP, Albany \* James J. Gascon, Esq., Costello Cooney & Fearon, PLLC, Albany and Syracuse \* Carolyn B. George, Esq., Friedman Hirschen Miller LLP, Albany \* Matthew S. Lerner, Esq., Goldberg Segalla LLP, Albany \* Edward J. Sheats, Jr., Esq., Sheats & Associates, PC, Brewerton.

**Uniondale, LI:** Michael A. Miranda, Esq. (Chair), Miranda Sokoloff Sambursky Slone Verveniotis LLP, Mineola \* Elizabeth Fitzpatrick, Esq., Fitzpatrick & Fitzpatrick, Mineola \* Joan M. Gilbride, Esq., Kaufman Borgeest & Ryan, LLP, New York City \* Neil L. Sambursky, Esq., Miranda Sokoloff Sambursky Slone Verveniotis LLP, Mineola \* Richard S. Sklarin, Esq., O'Connor Redd & Sklarin, LLP, White Plains \* Monte E. Sokol, Esq., L'Abbate Balkan Colavita & Contini LLP, Garden City \* Joel A. Sweetbaum, Esq., Sweetbaum & Sweetbaum, Lake Success.

## Information and Policies

**Pre-registration Strongly Advised:** You can save money and guarantee your seat and course materials by registering early. Registrations received or postmarked within 10 days of the event, or at the door, are subject to a higher registration fee. Seating is limited in all locations and registrations are taken on a first-come, first-served basis. If you plan to pre-register within 10 days of the program or to register at the door, please call the CLE Registrar's Office at 1-800-582-2452 to verify that the program is not sold out or that the date or location has not been changed. Pre-registrants are guaranteed a seat and set of course materials, and will automatically be notified if there are any such changes in the date or location of the program.

**Cancellations are easy - full refunds are given:** Your full registration fee will be refunded if you give us notice no later than the close of business (4:45 p.m. EST) on the day prior to the date of the program for which you registered. To cancel, write the CLE Registrar's Office at One Elk Street, Albany, New York 12207; or fax us a message at 518-487-5618; or call 1-800-582-2452. If you do not cancel and do not attend the program, a complete set of materials will be forwarded to you in consideration of the registration fee. Non-registrants may purchase program materials after the final program date.

**MCLE Credit:** This program is acceptable for MCLE credit in New York and many other MCLE jurisdictions. See the Program Description in this brochure for details.

**Discounts and Scholarships:** NYSBA members may apply for a discount or scholarship to attend this program, based on financial

hardship. Under that policy, any member of our Association who has a genuine financial hardship may apply in writing, not later than two working days prior to the program, explaining the basis of his/her hardship, and, if approved, may receive a discount or scholarship, depending on the circumstances. For more details, please contact our CLE Registrar's Office at 800-582-2452 (in Albany and surrounding area, dial 463-3724).

**Non Members** - Join the NYSBA and enjoy great discounts on CLE seminars, products, and other valuable NYSBA services. NYSBA members can save up to 30 percent over non-members on CLE seminars alone. Join now and take advantage of NYSBA membership discounts throughout the year.

Please check the appropriate box on the registration form if you wish to join, or contact NYSBA Membership Services at 518-487-5577 and a special application will be sent to you.

**Tap Recording of NYSBA Seminars is not permitted.**

**Accommodations for Persons with Disabilities:** We will make every reasonable effort to ensure that our programs are held in locations with barrier-free access for persons with mobility impairments. If you are planning to attend one of our programs and need assistance relating to some other type of disability, please contact us sufficiently in advance and let us know so that we can be prepared to make reasonable accommodations.



## REGISTRATION FORM

Please photo copy or clip out and return the bottom portion of this page when registering, including the mailing label on the back page.

Registrant: Please check your name and address on mailing label on back page and indicate corrections if needed

Business Phone ( ) \_\_\_\_\_ Years in Practice \_\_\_\_\_ No. of Lawyers in Firm \_\_\_\_\_

Primary Subject Area(s) of Practice \_\_\_\_\_

Are you a member of the New York State Bar Association?  Yes  No  Please send me a special application.

Are you a member of the Torts, Insurance and Compensation Law Section?  Yes  No

Please enroll me in "Commercial Lines: Coverage for the Construction Defect Claim"

Buffalo (06772)  New York City (06774)  Syracuse (06776)  Albany (06771)  Uniondale, L.I. (06773)

**PROGRAM FEES:**

Early registrations, received or postmarked 10 days prior to the date of the session for which you register:

NYSBA members-\$130 non-members-\$205 NYSBA student members-\$40

Late registrations, received or postmarked thereafter, and on-site registrations:

NYSBA members-\$145 non-members-\$220 NYSBA student members-\$55

Our CLE Seminar Coupon Plan offers substantial savings on our full-day live programs - please contact our Registrar's Office for further details: 1-800-582-2452

Check or money order enclosed in the amount of \$ \_\_\_\_\_ (Please make checks payable to the New York State Bar Association.)

Charge \$ \_\_\_\_\_ to  American Express  Discover  MasterCard  Visa Valid from \_\_\_\_\_ to \_\_\_\_\_

Card number: 

--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Authorized Signature \_\_\_\_\_

# Program Locations

**Important Note:** If you plan to pre-register within 10 days of the program or register at the door, please call us at **1-800-582-2452** or in Albany and surrounding area, dial **518-463-3724**, to verify that the program is not sold out or that the date or location has not been changed. Those who pre-register in advance of the program will automatically be notified of any such changes and will receive a full refund up to the day prior to the program, if they cannot attend and notify us of their cancellation. Please pre-register as early as possible.

(F) May 5  
Buffalo  
**HOLIDAY INN AMHERST**  
1881 Niagara Falls Blvd.  
Amherst, NY 14228  
(716) 691-8181

(F) May 12  
Syracuse  
**HOLIDAY INN CARRIER CIRCLE**  
6555 Old Collamer Road S.  
E. Syracuse, NY 13057  
(315) 437-2761

(F) May 12  
New York City  
**THE NEW YORKER HOTEL**  
481 Eighth Avenue @ 34th Street  
New York, NY 10001  
(212) 244-0719

(F) May 19  
Albany  
**NEW YORK STATE NURSES ASSOCIATION**  
11 Cornell Road  
Latham, NY 12110  
(518) 782-9400

(F) May 19  
Long Island  
**LONG ISLAND MARRIOTT**  
101 James Doolittle Boulevard  
Uniondale, NY 11553  
(516) 794-3800

**REGISTER EARLY, SAVE MONEY, AND GUARANTEE YOUR SEAT AT THE PROGRAM!!!**

New York State Bar Association – Continuing Legal Education

**NYSBA** **CLE** *presents*

## Commercial Lines: Coverage for the Construction Defect Claim

**Register Now!**

Save money and guarantee your seat at the program



**MCLE Credits —**  
See “Program Description” inside for more details.



**includes 1.0 ethics credit**

**REGISTRANT: PLEASE PROVIDE MAILING INSTRUCTIONS OR ADDRESS CORRECTION**

Send program admission ticket to address shown on label at right

This is a new address, please change your records

Send to the address below

Name \_\_\_\_\_  
FIRST/INITIAL/LAST

Firm \_\_\_\_\_

Business Address \_\_\_\_\_  
STREET/SUITE NUMBER/CITY/STATE/ZIP

Telephone ( ) \_\_\_\_\_

Registrant note: Is your name and address listed correctly on the mailing label at the right? If not, fill in correction below and return this page to NYSBA. If you receive multiple copies of this brochure, please pass them along to colleagues who may be interested in this program.

**POSTMASTER: CONTAINS DATED MATERIAL. PLEASE DELIVER PROMPTLY. THANK YOU.**

New York State Bar Association  
Continuing Legal Education  
Mail to: CLE Registration Office,  
New York State Bar Association,  
One Elk Street, Albany, NY 12207



Non-Profit Org.  
US Postage  
PAID  
Albany, NY  
Permit No. 155