

# CONSTRUCTION LAW *update*

**Thursday, April 14, 2011**

On the Park Conference & Events Centre  
1095 Leslie Street, Toronto



## **Strategies for Legal Preparedness in Construction Law**

**CONFERENCE CHAIR:**

Anna Esposito, *Pallett Valo LLP*

**FACULTY:**

Glenn Ackerley, *WeirFoulds LLP*

Karen Groulx, *Pallett Valo LLP*

Howard Krupat, *Heenan Blaikie LLP*

Kenneth Movat, *Gowling Lafleur Henderson LLP*

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**DAILY COMMERCIAL NEWS**  
AND CONSTRUCTION RECORD

**Register on-line at [constructionlawonline.ca](http://constructionlawonline.ca) or call 416-512-3807**

# A critical one-day workshop for the construction industry and its advisors

As the industry evolves, the latest construction law considerations will be necessary to create the foundation to manage and avoid risks. The key to success is an understanding of where the risks may lie and how to protect your firm from the unexpected.

Join your colleagues and examine the most important updates in construction law and how these developments will impact the way you do business today and in the future. Updates will include the new construction management contracts, the latest changes to the Construction Lien Act, and e-documentation best practices to protect your interests, and save you time and money.

Our panel of recognized experts will share their knowledge and provide you with the necessary tools to master the legal complexities of any project to avoid pitfalls, accomplish your objectives, and increase your profitability.



**Any Questions?**  
**Call 416-512-3807**  
**E-mail: [york@mmart.com](mailto:york@mmart.com)**



Construction Law Update eligibility for OAA Core Learning Hours is under review.

## Must attend event for:

- Architects
- Contractors
- Consultants to the Construction Industry
- Builders/Developers
- Owners
- Construction Lawyers
- In-House Counsel
- Contract Lawyers
- Property Managers
- Facility & Operations Managers
- Engineers
- Subcontractors



### CONFERENCE CHAIR:

**Anna Esposito,**  
*Partner, Pallett Valo LLP*

Anna Esposito heads up the firm's Construction Practice and is also a member of the Commercial Litigation Practice. Anna acts for all the parties in the construction pyramid, including general contractors, subcontractors, material suppliers, owners, developers, sureties, mortgagees and trustees in bankruptcy. Her advice is regularly sought in the areas of liens, breach of trust, bonds, contract preparation and resolution of all types of construction disputes. Anna's recognition includes the Special Designations Certified by the Law Society of Upper Canada as a Specialist in Construction Law, a Fellow of the Canadian College of Construction Lawyers and as a leading practitioner in the area of Construction Law by The Canadian Legal Expert Directory.



### FACULTY:

**Glenn Ackerley,**  
*Partner, WeirFoulds LLP*

Glenn Ackerley is a partner with WeirFoulds LLP. He regularly advises on project structures, construction and consultant contracts, procurement issues, and risk-avoidance strategies. Glenn is a Fellow of the Canadian College of Construction Lawyers. He sits on the Executive of the Construction Section of the Ontario Bar Association, is Chairman of the Board of Directors of the Toronto Construction Association, and has been involved in the Construction Advisory Council and the COCA Lien Act Subcommittee. Glenn is currently an instructor at the Admission Course of the Ontario Association of Architects.



**Karen Groulx,**  
*Partner, Pallett Valo LLP*

Karen is a partner of Pallett Valo LLP. She regularly advises on corporate/commercial litigation before all levels of Ontario courts. Her practice focuses on the preservation and enforcement of liens, bonding and trust claims. Karen has extensive experience acting for both parties in a broad spectrum of corporate and construction matters. Karen is a founding member of the Construction Working Group on Electronic Document and Production in Canada, and has presented at the Canada Principles Addressing

# STRATEGIES FOR LEGAL PREPAREDNESS

## ❖ 8:00 A.M. *Registration & Coffee*

## ❖ 9:00 A.M. *Welcome & Opening Remarks*

Anna Esposito, *Pallett Valo LLP*

## ❖ 9:15 A.M. – 10:30 A.M. *Update on the New CCDC Construction Management Contracts*

What are the differences between the CCDC 5A and CCDC 5B contracts?

- When is it appropriate to use each?
- What are their advantages and disadvantages?
- How to add the missing pieces through supplementary conditions

Glenn Ackerley, *Partner, WeirFoulds LLP*

## ❖ 10:30 A.M. – 10:45 A.M. *Refreshment Break*

## ❖ 10:45 A.M. – 12 NOON *Drafting Your Construction Contract: What are the Key Provisions to Consider?*

The ideal time to think about potential project risks is during the contract preparation phase, before issues arise. This seminar will focus on:

- Identifying the key risks for each stage of the construction process
- Essential provisions to include in your contract

• Understanding some of the frequently debated contract clauses, including:

- Pay When Paid provisions
- Managing unanticipated conditions
- Weather / Climate / Force Majeure
- Liquidated Damages

Howard Krupat,  
*Partner, Heenan Blaikie LLP*

## ❖ 12 NOON – 1:00 P.M. *Networking Luncheon*

## ❖ 1:00 P.M. – 2:00 P.M. *How to Effectively Manage Delay Claims*

The well known expression: "Time Is Money" is nowhere more true than when applied to a construction project. That's why delay in the completion of a project can give rise to numerous and costly claims. This presentation will address:

- Contractor's and subcontractor's claims
- Owner's claims
- How to advance and how to defend a delay claim
- Contractual terms that address delay claims
- Extended duration claims
- Loss of productivity claims
- Acceleration claims
- The quantification of delay claims
- The use of experts and their reports

Kenneth Movat, *Partner,*  
*Gowling Lafleur Henderson LLP*

## ❖ 2:00 P.M. – 2:15 P.M. *Refreshment Break*

## ❖ 2:15 P.M. – 3:00 P.M. *Electronic Discovery in Construction Litigation*

- Definition of Electronically Stored Information (ESI)
- What makes ESI Different and the implications of these differences for the Duty to preserve relevant ESI
- The Duty to Preserve ESI
- The Process with specific reference to construction law case and fact scenario
- Best Practices to Contain Costs
  - The importance of information management and records retention practices
  - The Rules of Civil Procedure pertaining to proportionality and discovery plans, and their application to construction law cases

Karen Groulx, *Partner, Pallett Valo LLP*

## ❖ 3:00 P.M. – 4:00 P.M. *Amendments To The Construction Lien Act*

- Amendment to the Definition of "Improvement"
  - The end to the Kennedy v. Dana legacy
- Notice of Intention to Register Condominium
  - New obligations imposed on owners of condominiums
- Elimination of Affidavit of Verification:  
A welcome end to the confusion caused by electronic registration
- Amendment to the Sheltering Rules: Protection for sheltered liens

Anna Esposito, *Partner, Pallett Valo LLP*

## ❖ 4:00 P.M. *Conference Adjourns*



**Howard Krupat,**  
*Partner, Heenan Blaikie LLP*

Howard Krupat is a partner at Heenan Blaikie LLP. His construction law practice encompasses all sectors of the construction industry and he represents a broad range of clients including owners, lenders, general contractors, subcontractors, and suppliers as well as design, architectural and engineering professionals. The claims side of Howard's practice entails the negotiation, mediation, litigation, and arbitration of disputes relating to all facets of construction law including bidding and tendering, claims, and construction liens. Howard is presently serving as a CLE Liaison of the Ontario Bar Association's Construction Section Executive. He is a member of the Allied Professions Committee of the Toronto Construction Association.



**Kenneth Movat,** *Partner,*  
*Gowling Lafleur Henderson LLP*

Kenneth Movat is the leader of the Gowlings National Construction Law Group and is certified by the Law Society of Upper Canada as a Specialist in Construction Law. He practises solely in the area of construction law with an emphasis on dispute resolution and litigation. He has provided legal counsel to owners, architects, engineers, contractors, subcontractors, material suppliers and surety bonding companies for over 20 years. Kenneth is recognized in the legal publication *The Best Lawyers in Canada 2010* for Construction Law and is repeatedly recognized in the field of Construction Law by The Canadian Legal Lexpert Directory.

# REGISTRATION FORM

**CONSTRUCTION  
LAW *update***

**PLEASE TYPE OR PRINT LEGIBLY.**

For additional registrations from the same organization, please photocopy this form. To receive written confirmation, you must register by April 8, 2011.

Given name \_\_\_\_\_

Surname \_\_\_\_\_

Title \_\_\_\_\_

Email \_\_\_\_\_

Company name \_\_\_\_\_

Full mailing address \_\_\_\_\_

City/Town \_\_\_\_\_ Province \_\_\_\_\_ Postal Code \_\_\_\_\_

Business Telephone \_\_\_\_\_ Facsimile \_\_\_\_\_

## REGISTRATION INFORMATION

### Advance Sales Only

There will be no sales at the door.

### Deadline to Register:

April 8, 2011

### How to Register:

**1) REGISTER ON-LINE:**  
constructionlawonline.ca

**2) FAX:**

Send the completed registration form with payment to 416-512-1077.

**3) MAIL:**

Send the completed registration form with payment to:

**Construction Law Update – Toronto**

c/o MMPI Canada  
10 Alcorn Ave., Suite 100  
Toronto, ON M4V 3A9

### Registration Fee:

**Up to March 18<sup>th</sup>, 2011:**

❖ \$475 + \$61.75 HST (13%) = \$536.75

**After March 18<sup>th</sup>, 2011:**

❖ \$525 + \$68.25 HST (13%) = \$593.25

### Registration Includes:

*Coffee, morning refreshments, lunch, afternoon refreshments & handouts.*

### Refunds & Substitutions:

Refunds will be provided for cancellations prior to April 8, 2011. A fee of \$75.00 will be applied for the processing fee of each refund. We regret that refunds cannot be offered after that date. However, delegate substitutions are permitted up to and including the day of the event.

### Any Questions?

Call: 416-512-3807

E-mail: york@mmart.com

### Educational Credits

Construction Law Update eligibility for OAA Core Learning Hours is under review.

## PASS IT ON!

If this brochure has been inadvertently sent to the wrong person, please pass it along to an interested associate.

Please check the most appropriate description of your responsibilities or organization:

- 00 Accountant
- 02 Developer / Owner
- 11 Financial Services
- 13 Construction Lawyer
- 15 Architect
- 16 Engineer
- 17 Contractor
- 17 Estimator
- 17 Project Manager
- 17 Trade Contractor
- 20 Government Official
- 36 Supplier
- 21 Other (please specify) \_\_\_\_\_

## REGISTER AT CONSTRUCTIONLAWONLINE.CA

### Payment Information:

#### Construction Law Update: Toronto

Thursday, April 14, 2011  
On the Park Conference & Events Centre  
1095 Leslie Street, Toronto, Ontario

	UP TO MAR 18 <sup>TH</sup>	AFTER MAR 18 <sup>TH</sup>
Full Day:	\$475.00	\$525.00
plus HST (#871719241RT0001)	61.75	68.25
<b>Total</b>	<b>\$536.75</b>	<b>\$593.25</b>

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Cheque enclosed    Visa    Mastercard    Amex  
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Construction Law Primer is produced by MMPI Canada, the producer of *Construct Canada*, *HomeBuilder & Renovator Expo*, *PM Expo*, *The Real Estate Forum*, and *The National GreenBuilding Conference*. For more information visit our website at [mmpicanada.com](http://mmpicanada.com).