

# CONSTRUCTION CONTRACTS: MANAGING RISKS & REWARDS



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4<sup>th</sup> Annual Real Estate &  
Construction Law Seminar

# CONSISTENCY AND CLARITY

1. **Material Terms:**
  - Pricing/Budget
  - Schedule/Completion
  - Scope of Work
  - Documents incorporated by Reference
  - Other Material Terms



# CONSISTENCY AND CLARITY

## 2. Dispute Resolution:

- Mediation/Arbitration/Litigation
- Venue Provisions
- Joinder of Design Professionals
- Attorneys' Fees to Prevailing Party



# CONSISTENCY AND CLARITY

## 3. Damages:

- Liquidated Damages v. Actual Damages
- Liquidated Damages as a Management Tool
- Bonus for Early Completion



# CONSISTENCY AND CLARITY

4. Savings and Contingency Funds:
  - Savings in Cost of the Work
  - No Line Item Guarantee/Allowances
  - Use of Contingency Fund



# CONSISTENCY AND CLARITY

## 5. Lien Waivers/Releases

- New Notice of Commencement Form
- Progress Payments
- Final Payment



# CONSISTENCY AND CLARITY

6. Payment and Performance Bonds
  - Unconditional Payment Bond
  - Conditional “Pay if Paid” Bond
  - Performance Bond
  - No 10 yr. statute of repose for Performance Bond



# CONSISTENCY AND CLARITY

## 7. Insurance

- Builder's Risk Property Insurance
- Owner Controlled Insurance Program (OCIP)
- Case Study on Garage Collapse





# Questions?



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