

Liability of Engineers: How to Stay Out of Trouble

Purpose and Background

There has been an expansion over the years of the liability of engineers for design, job site inspection, safety and contract administration. This two-day course will cover the responsibilities and liabilities of engineers, both contractually and from case law. It will provide an understanding of the interrelationships between engineers, owners and contractors on a project, and the contract and legal principles which apply thereto.

Attendees will learn how to properly document the job and why it is essential. You will learn how to head off problems by using the right contract language, including clean and fair terms. Advice will be given on actions to take during the design phase and the construction phase which will minimize problems, and how to effectively resolve disputes that inevitably surface. The seminar will be presented in an informal, interactive style, using real life examples. Participants will be given practical, hands-on advice and guidance on how to best conduct themselves and thus, avoid trouble.

Seminar Instructor

Peter Liloia III, ESQ., A.M.ASCE, holds a civil engineering degree from Princeton University and a law degree from Boston University School of Law. He is a licensed attorney (NJ, NY, FL, DC) with 30 years of experience in heavy, highway and building construction, in both the public and private sectors. He heads his own legal/consulting firm specializing in engineering and construction contract law, resolving disputes and liability issues, arbitration, mediation and the development and presentation of professional training seminars for ASCE and others.

Mr. Liloia is an arbitrator and mediator on the American Arbitration Association's National Construction Industry Panel and Commercial Panel where he has served on hundreds of construction, engineering and commercial cases. He is also a mediator for the New Jersey Superior Courts. He has resolved hundreds of disputes for clients in his private practice through negotiation, mediation and arbitration. For 25 years, Mr. Liloia has taught seminars and provided training workshops on engineer liability, contracts, claims, ethics, construction law, and alternative dispute resolution.

- For group training, contact **John Wyrick** (JWyrick@asce.org) or **Stephanie Tomlinson** (STomlinson@asce.org)

Summary Outline

DAY 1

Engineer's Warranty to Contractor Re: Adequacy of Design

Liability of Engineers

- Design
- Inspection and Contract Administration
- Means and Methods; Safety
- Shop Drawing Approval
- Actions Engineers Can Take to Minimize Exposure

Effect of Incomplete, Ambiguous or Incorrect Design Documents

- Impact on Project and to Contractor
- Consequences to Engineer
- Ways to Reduce Claims and Mitigate Impact

Typical Construction Contract Terms: Meaning and Ramifications

How Fair Contracts Work for You/How Harsh Contracts Can Hurt You

- Site Investigation/Subsurface Conditions
- No Damage for Delay
- Indemnification

DAY 2

How Fair Contracts Work for You/How Harsh Contracts Can Hurt You

- Notice of Claim
- Design Professional Attempts to Absolve Himself From Liability For His Own Mistakes

Differing Site Conditions and Subsurface Investigation

- Purpose
- Common Occurrences
- Effect of Site Investigation Clauses and Disclaimers
- Superior Knowledge Doctrine
- Formal Contract Requirements
- Change Order for Equitable Adjustment
- What if Owner Denies Contractor's Claim for Differing Site Conditions?
- Geotechnical Design Reports
- Ways to Minimize Differing Site Conditions Claims

How to Document the Job and Why It's Critical

- Why is Documentation So Important?
- What Are the Characteristics of Good Documentation?
- How Should the Job be Documented?
- Risk of Not Having Good Documentation

Dispute Resolution Options and Their Benefits Over Litigation

- Negotiated Settlement
- Mediation
- Arbitration
- Dispute Review Board

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Seminar Benefits

- Understand the responsibilities and liabilities of engineers, owners, and contractors
- Eliminate problems up front by using the right language and procedures in the contract and specification
- Learn how to properly document the job and why this is crucial
- Learn about negotiation, mediation, and arbitration, and why they are good alternatives to court
- Discover what preemptive actions should be taken to reduce and eliminate liability issues and avoid problems down the road
- Earn 1.5 CEUs

Who Should Attend?

- Consulting Engineers
- Field Engineers and Superintendents
- Project Managers and Project Engineers
- Government Agencies and Public Owners
- Private Owners and Developers
- Construction Managers
- Contractors and Subcontractors
- Design-Build Firms
- Architects
- Attorneys

ASCE seminars are available for On-Site Training. For details regarding On-Site Training and/or needs-based training opportunities, please contact:

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