



AMERICAN **BAR** ASSOCIATION

Forum on Construction Law

Limitation of Liability Clauses in Construction Contracts: Is the Sky the Limit? Enforcement and Exceptions to Limitation of Liability Clauses

WEBINAR - THURSDAY, FEBRUARY 27, 2020

1:00 PM - 2:30 PM ET

Speakers:

Brianna Kostecka, King & Spalding, New York, NY

Elizabeth Rosado, Manafort Brothers Incorporated, Plainville, CT

Monica L. Freeman, HDR, Omaha, Nebraska

Join our esteemed panel from the **ABA** and
National Association of Women in Construction (NAWIC) as they discuss:

Many industry form documents and custom construction contracts contain provisions shifting or limiting the respective parties' risks. One of the main risk-limiting provisions seen primarily in the terms and conditions of construction or professional services agreements is the "limitation of liability" clause ("LoL" clause). These clauses generally establish the maximum liability or exposure of an owner, contractor or designer/engineer if there is a claim. When dealing with a limitation of liability clause a frequent legal issue that is often disputed, is whether or not the clause is actually enforceable. The panel will discuss key cases, such as *Zirkelbach Construction, Inc. v. DOWL, LLC*, 389 Mont. 8 (Montana 2017) (capping design firm's liability at \$50,000 where Contractor alleged over \$1 million in damages due to a LoL clause in the contract).

The panel will provide best practices for:

- Enforceability
- Common exclusions
- Restrictions in operation and legality per U.S. and International Laws
- Negotiation
- Disputes

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| CLE Credits | 1.5 |
| List Price | \$195 |
| ABA Member | \$150 |
| Forum & NAWIC Members | \$95 |
| Student | \$65 |



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Financial Scholarship:

A limited number of scholarships to defray tuition expenses are available for this program.

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Please contact Tamara.Harrington@americanbar.org for more information.

CLE Information:

States typically decide whether a program qualifies for MCLE credit in their jurisdiction 4-8 weeks after the program application is submitted. For many live events, credit approval is not received prior to the program.

The ABA applies for and ordinarily receives CLE credit for ABA live webinars and teleconferences in AK, AL, AR, AZ, CA, CO, CT, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, ME, MN, MS, MO, MP, MT, NH, NJ, NM, NV, NY, NC, ND, OH, OK, OR, PA, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WV.

The ABA does not seek direct accreditation of live webinars and teleconferences in FL, ID, NE, PR, RI, and WY. Some states allow attorneys to earn credit through reciprocity or self-submission. View accreditation information for your state [embed link to: http://www.americanbar.org/cle/mandatory_cle.html

The ABA will seek credit for this program in the states indicated on this page. The ABA will seek 1.5 hours of General CLE credit in 60-minute states and 1.8 hours of General CLE credit in 50-minute states. Credit hours granted are subject to each state's approval and credit rounding rules.

New York: This transitional/non-transitional CLE program is approved for newly admitted and experienced NY attorneys in accordance with the requirements of the New York State CLE Board for 1.5 hours for 90-minute programs for General CLE credits.