



“Construction Claims – Cost Analysis”

King County Bar Association, 1200 Fifth Avenue, Suite 600, Seattle

April 18, 2013

.75 General **AV** CLE Credit Approved: approval # 342375

AGENDA

Construction Claims – Cost Analysis

1. Risk Assessment

- Key Questions:
 - i. As an owner, what is my exposure?
 - a. What is the contractor’s financial position on the project
 - ii. Who is responsible?
 - a. Comparison of bid to actual
 - b. Overrun Analysis

2. Claims Analysis

- Labor Claims
- Material Claims
- Equipment Claims
- Overhead Claims
- Global Claims
- Discrete Claims – delay
- Discrete Claims – disruption

SPEAKER BIOS:

Jeff Lounsberry

MRW Advisory

Jeff Lounsberry’s experience in economic and financial damages analysis dates to 1999 and relates primarily to the audit and analysis of construction claims. He has performed consulting work through legal counsel for clients including city, state,

and regional transportation organizations, universities, school districts, wastewater utilities, hospitals, seaports, construction contractors, and real estate developers.

Jeff's construction experience relates primarily to working for public owners in auditing construction costs and analyzing construction claims, but he has also worked with private owners and contractors. He has reviewed and analyzed claims based on labor, materials, subcontractor claims, equipment standby, home office overhead, and job site overhead, as well as other types of construction claims. The work involved on these projects has included reviewing contractors' bid documentation, analyzing electronic job cost reports, reviewing contemporaneous documentation such as invoices and employee timecards, analyzing labor and equipment rates, evaluating cost overruns, and performing analysis of claim calculations. Jeff's experience includes construction projects related to roads, highways, light rail lines, bridges, university buildings, school buildings, libraries, wastewater treatment plants, apartment and condominium buildings, and other projects.

Jeff also has experience in analyzing damages related to commercial disputes. On these projects, he has been involved in preparing and analyzing lost profits claims, reviewing the business practices of a marketing company, analyzing alleged excess billings by a customer service provider, and assigning values to commercial real estate properties. Jeff has provided expert testimony in arbitrations in Washington and Idaho and has participated in a number of mediations in Washington.

Brett Swanson

MRW Advisory

Brett Swanson has been working in the field of business litigation consulting and financial damages analysis since July 2005 (Brett spent 1 year of his career working in corporate finance at Microsoft). Brett joined MRW in June 2008, but he also worked with other MRW Advisory personnel at another consulting firm during the first 2+ years of his career. His primary area of emphasis during this period has been on construction claims and contract audits.

Mr. Swanson's construction claim analysis experience includes working with both public and private owners and contractors in analyzing construction claims. He has analyzed claims for delay and disruption and extended site and home office overhead costs, and environmental cost recovery, among others. He has reviewed and analyzed labor, equipment, subcontractor, materials, and job site and home office overhead documentation, which includes job cost reports, invoices, timecards, change orders, and bid documentation. These types of analyses have been provided for projects related to state and regional transportation departments, county governments, vacation resorts, hospitals, and various school buildings.

Mr. Swanson has significant contract audit experience and has performed audits for Firm Fixed Price (FFP) contracts, Guaranteed Maximum Price (GMP) contracts, Cost Reimbursable contracts, and change order requests. Over the last few years, he has spent a considerable amount of time working on two separate audits of high-dollar Cost Reimbursable contracts. He played a significant role in MRW's audit of a \$400 million project, on which MRW's work spanned approximately 1 year in duration. During that time, Mr. Swanson served as MRW's "boots on the ground" and the lead supervisor in the field, where he managed the day-to-day activities of an on-site team of up to five people. Separately, Mr. Swanson is currently serving as the lead day-to-day auditor of a Cost Reimbursable contract valued at approximately \$95 million.

HOW DO I EARN CREDIT FOR SELF-STUDY OR AUDIO/VISUAL (A/V) COURSES?

Lawyers are allowed a maximum of 22.5 audio-visual credits out of the 45 credits required for reporting period compliance.

Only 22.5 credits must be live.

For pre-recorded A/V (self-study) programs, although the sponsor should apply for accreditation, **lawyers need to report the credits earned for taking the course.** If the program has been approved, you can simply add it to your roster and

(a) indicate the date(s) you took the course, and

(b) the number of credits you earned.

- To add an approved course to your roster, follow the procedures below:
- Go to the "mywsba" website at www.mywsba.org/.
- Log in.
- Click on the "Access MCLE" link in the "MCLE Info" box on your home profile page.
- Click on "Add Activity." Search to find the approved course in our system. (See search suggestions on the screen.)
 - ** If you already know the Activity ID number for the course, you need only enter that information on the search screen.
 - ** If you do not know the Activity ID number, you will need to do a search to see if a Form 1 has been approved for the course.
 - ** "Add Approved Activities" lists can be sorted, by clicking on the column headings, to make finding a course easier.
- Locate the approved course (activity) on the list and click on the Activity ID link to add it to your roster.
 - For live courses, correct the number of credits earned, if needed.
 - For A/V courses, (1) indicate the date(s) you took the course, and (2) the number of credits you earned.
- Click the "Add Activity" Button.

If you were not able to find the Form 1 for the course, click the Live or A/V Form 1 button on the search results screen, fill out the form, and submit the course for accreditation review. Form 1 applications must include a detailed agenda of the activity, including the start and end times for each session and break. Without a detailed agenda, no credit can be granted.

One (1) MCLE credit may be claimed for each 60 minutes of participation in an accredited activity. Time spent on course registration, introductions, breaks, and business meetings are not included in activity accreditation and may not be counted. Bar members are responsible for making appropriate adjustments to their records when the actual time spent in an accredited activity is less than the maximum approved credit-hours. Adjustments must also be made for late arrival, early departure or other periods of absence or non-participation.

- You can Edit or Delete any activity on your Current Reporting Period roster by clicking on the hyperlink to the right of an activity.
- Your online CLE credit roster is provided only for your convenience and is not an official record. At the end of your reporting period you must certify your credits with the online or paper CLE Certification (C2) form to meet Supreme Court MCLE compliance requirements.
- A "Certificate of Attendance" or other sponsor-provided certification is not sufficient to receive course credit.

For further assistance, contact the State Bar Service Center at 206-443- (9722) or 800-945-9722, or questions@wsba.org.