

ABA FORUM ON CONSTRUCTION LAW



Division 5 Newsletter

November 2014
Volume 5



Chair's Message:

On Thursday, December 18, continuing our monthly series, we had a presentation by Brian Zimmerman on, "You Will Never Guess What Just Happened: Our Subcontractor's Bank is Claiming an Assignment of the Subcontractor's Receivables! Now What Do We Do?"

Our next newsletter will provide a recap of his presentation.

Also, don't miss out on the Mid-Winter Meeting in Scottsdale, AZ on January 27-28, 2015 – "My Favorite Mistakes: What Doesn't Bankrupt You Makes You Stronger." Make your hotel reservations right away because things are filling up considering that the meeting is being held just a few days before the Superbowl down there! In addition to attending the conference, please join us for our Dutch Treat Dinner at 8:00 p.m. on Thursday, January 29th at Bobby's, a Mancuso Restaurant located at 7122 East Greenway Parkway in Scottsdale. Please RSVP to me as soon as possible so we can get an accurate head count.

Finally, I'd like to wish everyone a very happy and safe holiday season!

-Marilyn Klinger, Division 5 Chair

"You Will Not Believe What Just Happened: The Owner Is Requiring Everyone To Use E-Builder For RFIs, Submittals, And All Contract Document Exchanges! Now What Do We Do?"

During our November telephone conference on November 17, 2014, Steve Schultz, Berkeley Research Group, gave a very informative and thought provoking presentation on the use of a collaborative project information sharing system such as E-Builder in the Construction Industry. Many of us do not have much, if any, experience with this project tool, so Steve's presentation was enlightening.

As Steve pointed out, "[g]iven that construction is such a fragmented, dynamic and disparate sector, the challenges of communicating effectively are greater than in most other production environments...addressing communication in the industry can be seen as a principal enabler for improving the industry in the future." The construction industry is slowly moving toward more collaboration between all players on projects. The growing use of BIM (Building Information Modeling) as a tool in the collaborative process between designers, contractors, and subcontractors has opened minds and moved the industry away from the traditional 'adversarial' approach to construction. The results are very positive.

E-Builder is a web-based tool that allows all parties access to the same information through its database platform. E-Builder can be used to maintain Change Information, Safety Management, Contingency Management, Bid Management, and Construction Administration, to name a few uses. Of course, as Steve points out, this type of system can raise legal questions as well. For example, does filling out a form on a website constitute or satisfy the contractual requirements for "notice"? What form of contract should be used when an Owner stipulates the use of a collaboration system such as E-Builder? These are issues of which we all need to be aware as the industry becomes more collaborative.



Steve Schultz is the Business Development Director for Berkeley Research Group's Construction Practice and helps counsel identify issues and then, through the help of BRG's 50+ team of construction professionals, helps resolve those issues.