

Choose to
attend one or
both days

LEGAL RISK MANAGEMENT FOR DESIGN PROFESSIONALS

The “business” of project design involves handling legal risk. *Can you competently manage risk?*

Join legal and industry experts to develop the practical skills and knowledge you need to manage crucial legal risks on your next project. Choose to register for one or both days to build your desired knowledge and skillset.

Day One: The Essentials

- Get a solid working knowledge of contract law principles and design services contracts
- Tactics for building an effective legal risk management mindset and for handling common risks and pitfalls in various design contracts
- Tips for dealing with key contract terms and “red flags” while still keeping the work

Day Two: Advanced and Emerging Topics

- Complete a contract risk assessment to elevate your abilities to identify and allocate risk
- Tactics for tackling scope creep, additional services, termination
- Tips for effective contract administration and practice management

Take advantage of bundle pricing when registering for both days.

Register today at:

osgoodepd.ca/design-professionals

CHAIRS AND ADVISOR[✳]

Geza Banfai[✳]
McMillan LLP

Andrea Lee
Glaholt Bowles LLP

Annik Forristal
McMillan LLP

Jennifer Roberts
Gibbs & Associates

REGISTRATION OPTIONS

In-Person OR Online (Live)
November 18 and 25, 2022
9:00 a.m. – 5:00 p.m. ET

Online (Replay)
January 19 and 26, 2023
9:00 a.m. – 5:00 p.m. ET

LOCATION

Osgoode Professional Development
1 Dundas St. W., 26th Floor
Toronto, ON

Can't make the date?

*Registration includes 120-day
unlimited, online access to the
recorded program.*

Legal Risk Management for Design Professionals

Legal risk lurks on every design project. *If unmanaged*, it can have damaging results – both financially and professionally.

The “business” of project design involves complex legal risks and contract documents that can feel overwhelming. **Prime yourself for success on every project.**

Developed by leading authorities and legal advisors, **OsgoodePD’s** practical legal risk management program for design professionals is carefully created to provide architects, engineers, contract administrators and consultants with crucial legal knowledge and risk management skills needed to handle projects and maximize success in today’s challenging business climate.

Day One: The Essentials

- Critical overview of the “business” side of your design practice in current market conditions and why legal risk management is essential to success
- Comprehending important contract law principles and how to assess risk allocation/transfer in modern design services contracts
- Tools for managing higher contractual risk issues including indemnities, liability for delay, value engineering, fast track design and design coordination/integration
- Strategies for evaluating the client’s commercial concerns in the professional relationship, negotiating sensible contract terms and assessing when to walk away

Day Two: Advanced and Emerging Topics

- Strategies for managing design professional risks and opportunities involving liens, prompt payment and adjudication regimes
- The Contract Administrator function – techniques for dealing with the significant risk involving the design professional’s *other* role
- Tactics for dealing with particularly troublesome situations including scope creep, suspension of work, termination of contract and dispute management
- Tips for working effectively with the insurer
- Approaches for thriving professionally in times of adversity and preparing for future challenges facing the design profession

PLUS! Registration includes access to two online modules, *Contract Law Essentials for the Design Professional* and *Foundations in Design Services Contracts*, covering core concepts to be discussed in detail during both days. Both online modules will be available to view on demand by **November 10, 2022**.

Who Should Attend

- Architects
- Engineers, Engineering Technologists
- Project managers
- Contract administrators and professionals
- Risk professionals
- Construction lawyers and in-house counsel
- Insurance professionals
- Business/financial executives in design/construction

Agenda

DAY ONE

November 18, 2022
The Essentials

9:00 a.m.

Three Things I Wish I Knew About Risk in Design Services When I Started

Annik Forristal
John Gamble

John Hackett
Allen Humphries

Setting the stage for the day's events, in this opening session you will engage with industry leaders and expert practitioners for a critical overview of the design profession today, particularly its "business side" where so much project risk resides for the design professional.

Benefit from more than 100 years of combined experience and get their top insights, lessons learned, tips for dealing with key challenges and advice about what they wish they knew about legal risk years ago. Session includes additional resources/takeaways.

10:30 a.m.
Health Break

10:45 a.m.

Developing a Legal Risk Management Mindset for Design Services

Geza Banfai

- Tackling the crucial first step – developing the mindset to evaluate and choose who you do business with...carefully
- A discussion about risk – the different kinds of risk and the different approaches required to manage and mitigate each
- The importance of the contract as a key component of legal risk management strategy
- The significance of cognitive biases when evaluating risk
- Engaging your allies in risk management

12:00 p.m.
Lunch Break

12:45 p.m.

Strategies for Tackling Contract Terms that Result in Disproportionate Risk

Eni Eski

Andrea Lee

This session explores various types of standard and non-standard contracts and introduces "red flag" issues impacting your design services delivery, including tips to overcome them.

- Comprehending the key risks in design services contracts – what the contract must cover
- Navigating key contractual terms relating to:
 - What are you promising to do?
 - What are you responsible for if something goes wrong?
 - How is the contract administered?
- How issues are dealt with in standard architectural and engineering services contracts
 - Client/Architect contracts: 1. Standard Form of Contract for Architect's Services – OAA 600 & OAA 601; 2. Canadian Standard Form of Contract for Architectural Services – Document Six (RAIC)
 - CCDC 31 – 2020 Service Contract Between Owner and Consultant
- Tips for dealing with non-standard contracts – POs, letter agreements and other contract forms

2:05 p.m.
Health Break

2:15 p.m.

Navigating "Red Flag" Issues and Terms Presenting Higher Risk to the Design Professional

Marcia Oliver

In this session, faculty will delve into how to navigate "red flag" issues and other contract terms that present higher risk and impact to your design services delivery.

- Liability for delay unrelated to standard of care
- Value engineering – the pressure to compromise engineering
- Fast track design and the challenges to standard of care
- Coordination and integration of design
- Demand for indemnities, particularly municipal contracts

- Arbitration clauses and the trouble they cause
- How the project delivery model impacts the design professional
 - Comprehending role differences and the application of the professional's services
 - Summary of key risks, issues and impacts to watch out for by project type
- Practical considerations for dealing with key risks and issues by project type and managing the design professional's risk profile
 - Design-Bid Build, Design-Build, Construction Management
 - Public Private Partnerships, Integrated Project Delivery and emerging models

3:30 p.m.
Health Break

3:40 p.m.

Expert Round-Table: How to Negotiate Sensible Contract Terms... and Still Keep the Work

Annik Forristal
Janna Levitt

Gregory MacNeil
David Zurawel

In this interactive expert discussion, you will get practical insights and actionable strategies for negotiating reasonable contract terms – including how to say "no" to proposed terms without shutting the door to work.

- The importance of a negotiation strategy
- Identifying "must have" vs. "nice to have" terms
- Understanding the client's concerns and negotiating for mutual gains
- Dealing with "mandatory" or "standard" terms and conditions in a client's proposed contract form
- The "go/no go" decision-making process – assessing when to walk away
- Session includes a Q&A, top tips and additional resources/takeaways

5:00 p.m.
Day One Concludes

Register today at:

[osgoodepd.ca/
design-professionals](https://osgoodepd.ca/design-professionals)

DAY TWO

November 25, 2022
Advanced and Emerging Topics

Pre-Work Contract Risk Assessment

Exercise – before day two begins, you will receive a “Pre-Work” package containing short design services contracts or clauses and clear instructions to review, identify and mark-up troublesome areas. The exercise will be taken-up in class, and includes a debrief and “answer key”, containing valuable sample clauses.

9:00 a.m.

Assessing and Managing Key Contract Risks and Debrief and Dialogue

Geza Banfai **Jennifer Roberts**

- Tying things together – review of the take-home exercise
- Debrief, open dialogue and an “answer key”
- Lessons learned and “aha!” moments

10:00 a.m.
Health Break

10:10 a.m.

What Design Professionals Need to Know about Liens, Prompt Payment and Adjudication

Sandra Astolfo **Philip Carpenter**

Overview of how the lien system and the prompt payment and adjudication regimes impact the design professional:

- Liens, holdbacks – fundamentals and important considerations for design services including: when does the design professional have lien rights – and when not?
- Prompt payment – summary of regime and trends, practice implications and exposures for design professionals, including during payment certification and the entire process
- Adjudication – summary of regime and key regional distinctions, the design professional’s role (between the Owner and Contractor) and the practice implications
- Troubleshooting tips for key risks and issues

12:00 p.m.
Lunch Break

12:45 p.m.

Managing the Pitfalls and Risk of Contract Administration

Annik Forristal **Bruce Palmer**

- Overview of the typical contract administration functions contractually assumed by the architect or engineer
- How and why contract administration can be a minefield for design professionals
- The contract administrator’s quasi-judicial role and the obligation to act impartially
- The pitfalls and risk of administering a construction contract
 - Key terms to be aware of when administering the contract and managing RFIs, SIs, COs and CDs
 - How to deal with the dynamics of being hired by the Owner, but required to act independently in making findings

2:00 p.m.
Health Break

2:10 p.m.

Navigating the Particularly Treacherous Areas of Design Professional Practice

Megan Marrie **Jennifer Roberts**

Steering through the particularly dangerous commercial waters:

- Scope creep and compensation for additional services
- Suspension and termination of the contract
- Disputes and claims and early warning signs of a potential claim
- Your insurer as your co-pilot: working effectively through the serious issues
- When to contact the insurer, how the claim will play out and what to expect
- How to work with your insurer effectively and avoid problems of coverage

3:40 p.m.
Health Break

3:50 p.m.

Expert Round-Table: Overcoming Adversity in Managing the Business of Design Professional Practice

Andrea Lee **Wilma Schreuders**
Bruce Matthews **Susan Spiegel**

- How professional practice has changed in recent years (and it hasn’t been all bad!)
- Maintaining professional relevance in the face of adversity
- Statistical overview of top risk areas for claims
- Where professional design practice is heading and what you need to do now to prepare
- Best practices to overcome adversity and thrive in the current market
- Ask the experts – get your top questions addressed!

5:00 p.m.
Day Two Concludes; Program Ends

Online Primer Modules

Included with your registration, these self-paced primer modules cover core concepts that will be explored in greater detail during both days. Each module is ~60 minutes and will be available to view by **November 10, 2022**.

It is strongly recommended to view both primer modules before attending either day.

Module One – Contract Law Essentials for the Design Professional

Geza Banfai

- Key contract law principles and how and why the contract is key to legal risk management
- Why a written contract is important: the legal implications of verbal/unsigned agreements
- How to read/interpret a contract, what to watch out for and the contract “code”

Module Two – Foundations in Design Services Contracts

Andrea Lee

- How contract principles are reflected in “standard” forms of contract
- Review of typical standard contracts vs. bespoke contract forms – their advantages, disadvantages and cautionary points
- Review of practical/business considerations to keep in mind when contracting

Drawing on the expertise and experience of leading lawyers and experts, including:

Chairs and Advisor



Geza Banfai
McMillan LLP



Annik Forristal
McMillan LLP



Andrea Lee
Glaholt Bowles LLP



Jennifer Roberts
Gibbs & Associates

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Planning Committee

John Gamble

President and CEO,
Association of Consulting Engineering
Companies | Canada

John Hackett

Vice President,
Practice Risk Management,
Pro-Demnity Insurance Company

Allen Humphries

Practice Advisor,
Ontario Association of Architects

Gregory MacNeil

Vice President of Practice,
Royal Architectural Institute of Canada

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Director,
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Additional Faculty

Sandra Astolfo

WeirFoulds LLP

Philip Carpenter

WeirFoulds LLP

Eni Eski

Brunner & Lundy LLP

Janna Levitt

Partner and Co-Founder,
LGA Architectural Partners

Megan Marrie

Shibley Righton LLP

Bruce Matthews

Executive Director,
Association of Consulting Engineering
Companies | Ontario

Marcia Oliver

General Counsel and VP Legal,
Bennett Group of Companies

Bruce Palmer

President and CEO,
Pro-Demnity Insurance Company

Wilma Schreuders

Professional Liability Insurance Executive

Susan Speigel

President,
Ontario Association of Architects

“Excellent advice on how to engage in a contract. Generous, knowledgeable [and] engaging speakers, all excellent and at the top of their game, committed and passionate about their work. Zoom is a good platform for this type of format.”

Diarmuid Nash, Partner, Moriyama + Teshima Architects

“Great content and presenters, clearly experts in the subject matter.”

Paul Gogan, Managing Principal, HOK Architects

“Excellent. Very nice to see such big issues being discussed openly as an industry to help professionals. United we stand!”

Amarpreet Dawar, Senior Project Architect, Kasian Architecture

“Very good [and] a lot of very experienced presenters.”

Jeremy Lemieux-Vallee

Architects & Engineers: This program may be eligible for continuing education learning hours in your jurisdiction. To inquire about eligibility, please contact cpd@osgoode.yorku.ca



This program is eligible for **6.5 Structured Learning** hours under the **Alberta Association of Architects (AAA)** Professional Development Program.



This program is eligible for **13.25 Core Learning Units** under the **Architectural Institute of British Columbia (AIBC)** Continuing Education Program.

This program is eligible for **Learning Hours** with the **Ontario Association of Architects (OAA)** Continuing Education Program

Registration Details

Fee Per Delegate

Single Day: **\$695 + TAX**

Program Bundle: **\$1195 + TAX**

Newly Licensed*: **50% off regular rate + TAX**

*This fee applies to newly licensed professionals within the past 2 years

Fees include online or in-person attendance, electronic program materials, technical support and 120-day online access to recorded program. Group discounts, special rates and financial assistance are available. For details, visit <https://osgoodepd.ca/professional-development/fees-policies>.

Program Changes

We will make every effort to present the program as advertised, but it may be necessary to change the date, location, speakers or content with little or no notice. In the event of program cancellation, York University's and Osgoode Hall Law School's liability is limited to reimbursement of paid fees.

Cancellations and Substitutions

Substitution of registrants is permitted at any time. If you are unable to find a substitute, a full refund is available if a cancellation request is received in writing 14 days prior to the program date. If a cancellation request is made with less than 14 days notice, a \$75 administration fee will apply. No other refund is available.



OsgoodePD has been approved as an Accredited Provider of Professionalism Content by the LSO.

Eligible CPD Hours – LSO (ON)

Day One: 7h 5m CPD (7h 5m Substantive).

Day Two: 7h 5m CPD (7h 5m Substantive).

Program Bundle: 14h 10m CPD (14h 10m Substantive).

Online Primer Modules: 1h 45m CPD (1h 45m Substantive).



OsgoodePD programs may be eligible for CPD/MCLE credits in other Canadian and US jurisdictions. To inquire about credit eligibility, please contact cpd@osgoode.yorku.ca.

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Email: osgoodepd@osgoode.yorku.ca



Phone: 416 597 9724



Mail: 1 Dundas Street West, 26th Floor, Toronto, ON, M5G 1Z3



Legal Risk Management for Design Professionals

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