



2010 ANNUAL MEETING

**Thursday and Friday
November 4-5, 2010**

**The Hermitage Hotel
231 Sixth Avenue North
Nashville, Tennessee 37219**

1-888-310-8176

Schedule of Events

Thursday, November 4

- 12:00 p.m. Lunch and golf tournament
- 6:00 p.m. Registration/Cocktails: The Nashville City Club
- 7:00 p.m. Dinner: The Nashville City Club

Friday, November 5

- 8:00 – 8:30 a.m. Breakfast**
- 8:30 – 8:45 a.m. Welcome and Introduction
- 8:45 – 9:00 a.m. TACC Annual Meeting
- 9:00 – 9:15 a.m. Legislative Update – *Don L. Smith, Smith Cashion & Orr, PLC*
- 9:15 – 9:45 a.m. McClain v. Kimbrough Construction Revisited – *Jim Kay, Kay, Griffin, Enkema & Brothers, PLLC*
- 9:45 – 10:30 a.m. Addressing Archeological Discoveries on Construction Projects – *Michael C. Moore, State Archeologist and Director*
- 10:30 – 10:45 a.m. Break**
- 10:45 – 12:00 p.m. Panel Discussion - What Every Construction Lawyer Should Know About FHA/ADA Litigation – *Theresa L. Kitay, Attorney at Law, Gary Vanasek, U.S. Dept. of Justice, Kevin J. Kijewski, U.S. Dept. of Justice*
- 12:00 – 1:00 p.m. Lunch**
- 1:00 – 2:00 p.m. The Hyatt Skywalk Revisited: What Happened? Could It Happen Again? – *G. William Quatman, Esq., General Counsel & Vice President, Burns & McDonnell*
- 2:00 – 2:30 p.m. The 2010 Amendments to Rule 26 of the Federal Rules of Civil Procedure – *Nicholas K. Holmes, Nelson, Kinder, Mosseau & Saturley, P.C.*
- 2:30 – 2:45 p.m. Break**
- 2:45 – 3:15 p.m. Ethical Considerations Concerning Expert Retention and Discovery – *Nicholas K. Holmes, Nelson, Kinder, Mosseau & Saturley, P.C.*
- 3:15 – 4:15 p.m. Ethics and The New E-Discovery Rules – *Brian S. Faughnan, Adams & Reese, LLP*
- 4:15 p.m. Adjourn**

Informational Topics

McClain v. Kimbrough Construction Revisited

Jim Kay

It has been 20 years since the Tennessee Court of Appeals issued its opinion in McClain v. Kimbrough Construction Co., Inc. Jim Kay, counsel for Harrison McClain, will share his personal account of his epic battle to have the doctrine of “notice and an opportunity to cure” adopted as law in the state of Tennessee.

Jim Kay is a Nashville native with extensive trial, arbitration, and mediation experience. Ranked by the Nashville Business Journal as one of the eight best litigators in Nashville, he has tried over 75 jury cases and hundreds of non-jury cases. He has also completed over 1,500 arbitrations and mediations across the State of Tennessee. Jim attended Auburn University, Balliol College in Oxford, England and graduated from Washington & Lee University School of Law in 1985.

Addressing Archeological Discoveries on Construction Projects

Michael C. Moore

It is not uncommon to discover human remains and other items of archeological significance on construction projects. As such, this presentation will review the applicable Tennessee law that must be followed when artifacts and human remains are discovered on construction sites. Mr. Moore will then review some of the more unique archeological discoveries that have occurred on construction projects in Tennessee.

Michael C. Moore is the State Archeologist for Tennessee and the director of the Archeology Division for the Environment and Conservation Department. The Archeology Division is responsible for surveying the state to identify and record archaeological sites, excavating prehistoric and historic sites, and conducting research devoted to the protection and management of such sites on state lands. In his previous roles as assistant state archaeologist and state programs archaeologist, Mr. Moore's duties included reviewing state agency land transactions and construction projects to assess potential impacts to archaeological resources, as well as conducting extensive surveys and test excavations to identify cultural resources.

What Every Construction Lawyer Should Know About FHA/ADA Litigation

Theresa L. Kitay, Kevin J. Kijewski, Gary Vanasek

FHA/ADA compliance is a vital consideration on large construction projects. Indeed, FHA/ADA violations can lead to significant liability exposure to owners, design professionals and contractors. The intent of this panel discussion is to provide the audience with an overview of FHA/ADA law and to convey essential strategies for dealing with FHA/ADA litigation from the perspective of prosecution and defense.

Theresa L. Kitay concentrates her law practice on defense and preventative representation of the housing industry in all civil rights matters, including fair housing, Section 504, Title VI, and ADA. Terry has extensive experience as a trial attorney in both private practice and for the U.S. Department of Housing and Urban Development. Terry is a graduate of Smith College and Emory University School of Law.

Kevin J. Kijewski is a senior trial attorney at the U.S. Department of Justice in Washington, D.C. and has held the position of trial attorney in the Housing and Civil Enforcement Section of the Department of Justice for the past ten years. Kevin has litigated fair housing and civil rights laws for the past fifteen years. Since 1998, he has been involved in the prosecution of a number of significant lawsuits enforcing the Fair Housing Act's design and construction requirements for accessibility at multifamily housing complexes.

Gary Vanasek is also a U.S. Department of Justice attorney and serves as Assistant U.S. Attorney for the Western District of Tennessee. Gary has also served as Civil Division Chief and Executive Assistant U.S. Attorney. His current practice includes ADA cases such as the recent barrier removal agreements with several major Memphis area franchisees. Gary received a B.A. from the University of Memphis and a J.D. from Vanderbilt Law School.

The Hyatt Skywalk Revisited: What Happened? Could It Happen Again?

G. William Quatman

A suspended walkway at the Hyatt Regency hotel in Kansas City, Missouri collapsed on July 17, 1981 killing 114 people, injuring over 200 others and spawning a massive wave of complex litigation. Mr. Quatman will explain the cause of what is one of the deadliest structure collapses in U.S. history. Mr. Quatman will also discuss the litigation that followed the disaster as well as the impacts the disaster had on the construction industry.

G. William Quatman is vice president and general counsel for Burns & McDonnell, a full-service engineering, architecture, construction, environmental and consulting solutions firm. Considered an expert across multiple disciplines, Mr. Quatman gained extensive experience from his time as lead attorney for the construction practice group of Shughart Thomson & Kilroy. Mr. Quatman is a registered architect in Missouri and a nationally-recognized author, speaker, and instructor in the design and construction industries.

The 2010 Amendments to Rule 26 of the Federal Rules of Civil Procedure

Nicholas K. Holmes

The U.S. Supreme Court has approved changes to the rules governing civil practice in federal court. The changes, which will be effective on December 1, 2010, relate to portions of Federal Rule of Civil Procedure 26 governing the discovery of information from expert witnesses who have been retained to testify at trial. Mr. Holmes will discuss the implication of these amendments such as the streamlining of litigation and enhanced protection against disclosure of expert reports.

Nicholas K. Holmes is the chair of the Construction Industry Practice Group at Nelson, Kinder, Mosseau & Saturley, PC, a law firm with offices in Boston, Massachusetts and Manchester, New Hampshire. Nick's practice is devoted primarily to construction litigation, representing engineers, architects, and contractors in the litigation and arbitration of disputes in venues across the U.S. and abroad. He is a frequent lecturer on construction litigation, and authored a chapter in a treatise on construction change order claims. Nick received a B.A. in History from Cornell University and a J.D. from the University of Wisconsin.

Ethical Considerations Concerning Expert Retention and Discovery

Nicholas K. Holmes

Experts have become practically essential to construction litigation. The practice of obtaining and utilizing expert opinions presents potential ethical pitfalls. In this session, Mr. Holmes will provide useful insight into what precautions should be taken when dealing with testifying expert retention and discovery issues.

Ethics and The New E-Discovery Rules

Brian S. Faughnan

Electronic discovery is a rapidly-evolving and frequently confusing part of the litigation process. It is often difficult to stay current with developments in case law, court-imposed document preservation requirements, and other emerging E-discovery issues. In this session, Mr. Faughnan provides important insight into the new E-discovery rules and the ethical implications they present.

Brian S. Faughnan is a partner with the Memphis office of Adams and Reese, LLP. He practices at the trial and appellate level in the areas of complex commercial litigation and media law. Brian has also successfully represented a variety of corporate defendants and business plaintiffs in class action litigation lawsuits. Brian earned a B.A. from Rhodes and a J.D. from the University of Memphis Law School.

Hotel Information

The Hermitage Hotel
231 Sixth Avenue North
Nashville, Tennessee 37219

To make reservations, call The Hermitage at 888-310-8176. Room rates are \$249 per night and the cutoff for the preferred rate is **October 8, 2010**.

TACC Golf Tournament

The golf tournament will be held on Thursday, November 4, beginning at noon. The arrangements are currently being finalized and details will be conveyed in the near future. To sign up for the tournament, please contact:

Craig Mangum
Smith, Cashion & Orr, PLC
cmangum@smithcashion.com
(615) 742-8590

CLE Credit

This program has applied for 5.75 hours of general Tennessee CLE credit including 1.5 hours of ethics.

REGISTRATION FORM

Name:	
Firm:	
Address:	
Phone:	
Email:	
Guest name:	

COST: \$250.00 per person (includes Thursday dinner and Friday breakfast and lunch)

Enclosed is my check for \$250.00

Enclosed is the \$40.00 fee for a dinner guest

Enclosed is the \$125.00 fee for the golf tournament

Please mail or fax this form and a check payable to TACC to:

Bob Green
P.O. Box 442
Knoxville, TN 37901-0442
Fax: (865) 524-1773