

DIVISION 1: LITIGATION AND DISPUTE RESOLUTION
STEERING COMMITTEE MEETING
ABA FORUM ON CONSTRUCTION LAW

Minutes from Monday, December 13, 2021 Meeting

3:00 PM EST

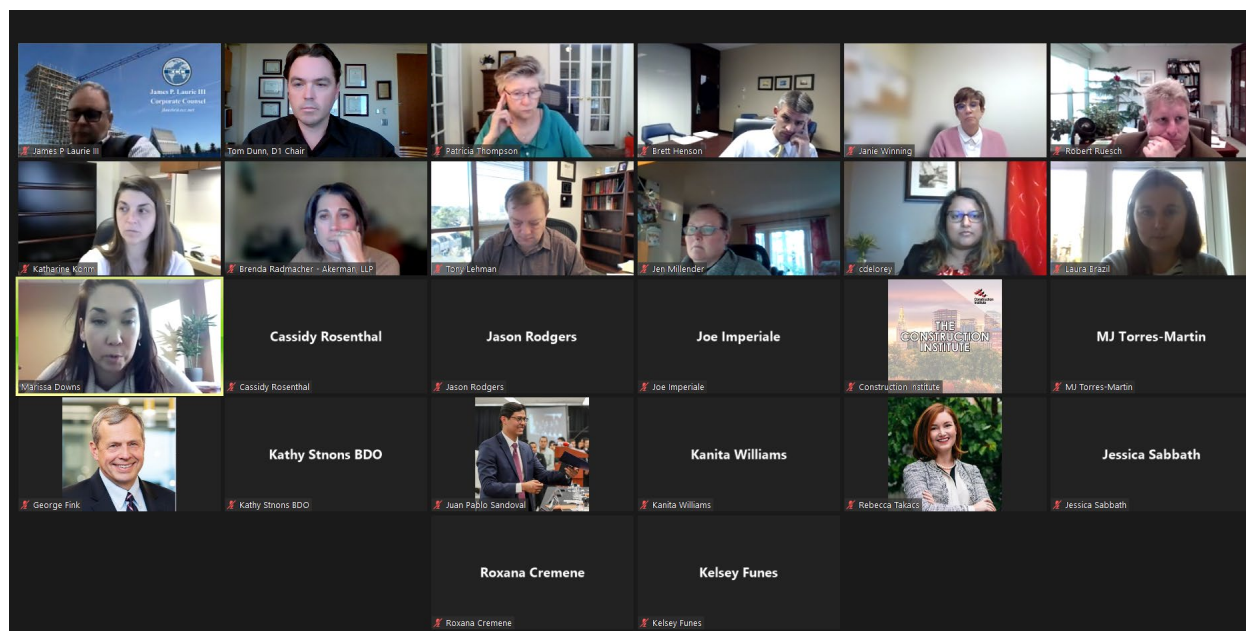
Join Via Zoom

<https://americanbar.zoom.us/j/8035484597?pwd=bld1YysxL25ibWxYZTQ5L29OTmYrdz09>

Meeting ID: 803 548 4597

1. Steering Committee Roster – in attendance

Tom Dunn (Chair)	Joe Imperiale
Cassidy Rosenthal (Immediate Past Chair)	Katie Kohm
Catherine Delorey	Rob Ruesch
Kelsey Funes	Jason Rodgers-da Cruz
Tony Lehman (GC Liaison)	Jen Millender
James Laurie	MJ Torres-Martin
Patricia Thompson	George Fink
Brett Hensen	Kathy Stnons
Janie Winning	Juan Pablo Sandoval
Brenda Radmacher	Kanita Williams
Jessica Sabbath	Rebecca Takacs
Roxana Cremene	



1. Chair's Report

- (a) ABA Communities - <https://communities.americanbar.org/>. Brett Hensen is going to track down best practices for ABA Communities and answer some of the questions below.
- (i) *Loss of members in transfer (went from 500+ to just over 400 members. Why was there a change?*
 - (ii) *Check notification settings. Tom has his set for "instant" but I have not received any notifications yet on the new system. I have heard that this was fixed, but I posted something today (12/28) and did not receive an email and my setting was "instant"*
 - (iii) *Announcements received yet? Yes, Brett reported that he is receiving announcements / notifications. It appears daily digest is working.*
 - (iv) *Difference between Posts vs. Discussions. They appear to be very similar. Brett will do some research and come back with best practices on using the ABA Communities. The announcements is more social media / visually dynamic than the discussions.*
 - (v) *What happened to the files? We had a number of files (past agendas/meeting minutes/volunteer opportunities) on ABA Connect. Those are now not there. It would be great if they could be added back.*
- (b) Concepts Book Team: Joe Imperiale, George Fink, Lexie Pereira, Chris Stanek, Laura Brazil, Nicky Steen. *18 fantastic submissions. THANKS TEAM!*
- (c) Virtual Law Student Outreach Event – Lexie - Wed. Feb. 2, 2022. *Tom will follow up with Lexie on this program, but we are now confirmed with a panel. The event is from 5-6:30PM ET. Please be prepared to share with your law school / law student networks.*
- (d) Virtual Jury Selection Program – Jason – March 7th is target week. *Jason reported that they have speakers for the program and are just doing the final touches now.*
- (e) Midwinter Meeting – new leadership. *Tom explained that a nominating committee will be setup to choose the new Governing Committee and Chair-Elect positions for the next bar year. Tony Lehman and Catherine Delorey are serving on the nominating committee this year.*

2. **Planning for Next Meeting - [Midwinter Meeting: February 24-26, 2022 – San Diego, CA \(original 2021 Midwinter Meeting\)](#)**

- (a) **Practicum: Advanced Advocacy in Mediation (Brenda Radmacher). February 23rd at 1-4pm.** Construction cases are complex and often involve not only complex technical issues, but also numerous parties, voluminous documents, and a myriad of claims and counter-claims. Many construction cases are resolved through mediation – and nearly all of them will at least attempt mediation voluntarily, or be required to by contract. However, a successful mediation of complex construction cases requires a skilled neutral and experienced advocates. This Mediation Practicum will provide advanced mediation and negotiation insights and skills for construction lawyers, construction companies, and neutrals alike to maximize the potential to effectively mediate and resolve complex construction cases. This practicum will be an interactive event with the attendees including participating in and observing role plays and learning from some of the top construction lawyers and mediators.
- (b) Social Event: Janie Winning is looking into options. We will partner up with Division 7
- (c) Lunch/Breakfast Program: Marissa Downs (**Lessons Learned in the 10th Year Anniversary of the Indiana State Fair Stage Collapse**) with Division 7. We will have an engineer that worked on that project as well as the mediator who helped resolve the dispute.

3. **D1 Toolbox Talk Series** – Jade Davis, Scott Griffith, David Ponte, Jennifer Millender, Daya Naef, Patricia Thompson

- (i) **December 9, 2021 at 12 Noon – Arbitration Appeals.** Worked out great! Thanks Patricia and Daya!
- (ii) TTS Team Leader / Committee Members – let Tom Dunn know if you want to join our team.
- (iii) Planning out 2022 is being done now.
- (iv) Next TTS is January 27, 2022 with Discussion Leader Sakib Kahn on Delegated Design. We are looking for a second discussion leader that can provide the design professional perspective.


4. **The Dispute Resolver Blog.**

- (a) Update - [The Dispute Resolver -- Division 1 \(Litigation & Dispute Resolution\) Blog \(abaconstructionforumdivision1.blogspot.com\)](#)
- (b) Column for Under Construction – communicate with editors

- (c) D1 Neutral Series – Catherine / Marissa provided an update including a recent feature of Clifford Shapiro.
- (d) Podcast Recap – Kanita Williams starting this initiative.
- (e) Other Running Series Ideas – Division 1 Trial/ADR Tips – “war stories” or practical tips on litigation, mediation, arbitrations. 500 words or less. Informal in tone and a captivating photo of the author as it may relate to the topic covered.

5. Reports from Division 1 Liaisons to Forum’s Standing Committees

- (a) Young Lawyers – Lexie Pereira - no update
- (b) In-House Counsel – Edward Green – no update
- (c) Membership – Marissa Downs – no update
- (d) Technology – Brett Henson – *podcast and ABA connect but no tech meeting; he will reach out to Tech chair.*
- (e) SPEC (Special Programs and Education) – George Fink described upcoming programs including the [CLE on the Construction Trial Deskbook on January 19, 2022](#). Please promote this CLE and signup for it. George will check on the status of registration opening for the Trial Academy.



Navigating through Key Aspects of a Construction Trial or Arbitration


WEBINAR - WEDNESDAY, JANUARY 19, 2022
1:00 PM - 2:30 PM ET

Moderator: Anthony D. Lehman, Attorney at Hudson Lambert Parrott Walker, LLC Atlanta, GA

Speakers:
Kelsey Kornick Funes, Phelps Dunbar LLP, Baton Rouge, LA
Michael D. Lane, Riess LeMieux, LLC, New Orleans, LA
Luis Prats, Carlton Fields, Tampa, FL

Join our esteemed panelists from the ABA Forum on Construction Law as they discuss:

The Forum on Construction Law recently published its Construction Trial Deskbook, available through ABA Publishing. In this webinar, we have three chapter authors -- Kelsey Funes, Michael Lane, and Luis Prats (who also was one of the book's editors) -- sitting down with book editor Tony Lehman for a frank discussion on key portions of a construction trial. Join us as these four Forum veterans discuss themes for trial, opening statements, direct and cross examination, and bring up some war stories to help you to fine-tune your presentation in your next construction trial or arbitration.



1-19-22 Webinar
Flyer.pdf

The panel will provide best practices for:

- o All Forum members
- o Attorneys
- o Consultants
- o Construction Industry Participants

- (f) Diversity – Jessica Sabbath – promoted the diversity scholarships and fellowships. Visit the Forum’s website for more info. Deadline to apply for the fellowship is January 31.
- (g) Publications – Rebecca Takacs – plug books when you see a post on linkedin

- (h) Marketing – MJ Torres-Martin – ENR new contract being negotiated; Jan. 31st is the “big insert” in the ENR. MJ talked about collaborating with NAWIC. We are on board to do that as we did earlier this year.

6. Upcoming Meetings – advance planning for these programs & volunteers

- (a) **Feb 2022:** Midwinter Meeting: February 24-26, 2022 – San Diego, CA (original 2021 Midwinter Meeting). Discussed above.
- (b) **May 2022:** Annual Meeting: May 4-7, 2022 – NYC (original 2021 Annual Meeting)
- (i) Practicum: In-House Counsel – Cassidy Rosenthal is restarting this.
 - (ii) Social Event: George Fink has selected a venue (rooftop patio) that is 3 blocks from the hotel. We will schedule it for Friday (5/6) at 5PM (half day that day). Division 6 will join us and perhaps others.
 - (iii) Lunch/Breakfast Program: Bill Metzdorff (WIPFLI) and Rob Ruesch (blockchain). D2, D4, and D6 will partner with us on this presentation.
- (c) **July 2022:** Summer Meeting– July 26-28, 2022 – Hyatt Regency Lake Tahoe Resort (Incline Village, NV) (originally Fall 2020 Meeting)
- (i) Social Event: Rebecca Takacs starting her search
 - (ii) Lunch/Breakfast Program – Katie Kohm said we are thinking of doing something with D11 on renewable energy projects / litigation.
 - (iii) Practicum – Mindfulness in Negotiations (Catherine) said this is on schedule.
- (d) **Oct 2022:** Fall Meeting – Date TBD / Location Memphis
- (i) Lunch/Breakfast Program – Brett Henson - Confronting Behavioral Biases in Evaluating, Forecasting, and Negotiating Construction Claims.”
 - (ii) Social Event: Mike Lane
 - (iii) Practicum: Construction Trial Advocacy – Part I. *Jason Rodgers-da Cruz is putting together an outline of the 3 part Construction Trial Advocacy Practicum Series starting in October 2022. If you*

are interested in planning/speaking at these practicums, please contact me.

(e) Jan/Feb 2023: Midwinter Meeting – Date TBD / Location Puerto Rico

- (i) Practicum: Construction Trial Advocacy – Part II - [REDACTED]
- (ii) Lunch/Breakfast Program: [REDACTED]
- (iii) Social Event: [REDACTED]

(f) April/May 2023: Annual Meeting – Date TBD / Location TBD

- (i) Practicum: Construction Trial Advocacy – Part III - [REDACTED]
- (ii) Lunch/Breakfast Program: [REDACTED]
- (iii) Social Event: [REDACTED]

(g) October 2023: Fall Meeting – Date TBD / Location TBD

- (i) Practicum: [REDACTED]
- (ii) Lunch/Breakfast Program: [REDACTED]
- (iii) Social Event: [REDACTED]

7. Next Steering Committee Meeting:

Monday, January 10, 2022 3PM ET

HAPPY HOLIDAYS
AND HAPPY NEW
YEAR!!!!!! Thanks!