



Schuyler  
Roche  
Crisham  
ATTORNEYS



**RISK MANAGEMENT AND BUSINESS PLANNING  
FOR  
DESIGN AND CONSTRUCTION PROFESSIONALS**

**February 9, 2010 – 8:30 a.m.**

**\*\*AGENDA\*\***

**8:30-8:35**

**I. Introduction & Welcoming Remarks**

Jeffrey T. Kubes, Moderator

B. Tips and strategies for maximizing your sources of protection.

**8:35-9:05**

**II. Avoiding On-The-Job Risks That Can Lead to High Verdict Exposure: A Case Study**

Jean M. Prendergast

C. An update on the recent developments in the law that potentially impact sources of protection potentially available to design professionals and other parties that are frequently sued in construction related lawsuits.

A. The audience will be presented with a high-verdict case study developed from facts in actual jury trials involving design professionals. This fact pattern includes real life examples of trial testimony and daily reports that plaintiffs' attorneys have used against design professionals.

B. The presentation will include information concerning trial court rulings on contract language and a brief overview of the appellate process.

C. The speaker will offer practical ideas for conducting a risk analysis.

**9:30-10:20**

**IV. Analyzing Your Current Structure: A Case Study**

- **A panel discussion: Redesigning your business to protect you and your family's assets.**

Lauren E. DeJong

Frank D. Zaffere

Douglas A. Hanson

A. Straw, Wood or Brick: Different Types of Business Organization, a comparative analysis of different forms of business organizations, with focus on limitation of liability and tax issues.

**9:05-9:30**

**III. Providing for Your Continued Existence: Before and After a High Verdict**

John P. O'Malley

A. Additional sources of protection that may be available in the construction setting.

1. Sole proprietorship
2. General partnership
3. Limited partnership
4. Limited liability partnership
5. Corporation
6. Limited liability company
7. Techniques for shifting from one business form to another

B. Life During the Marriage: Methods for Controlling Management

1. Directors/managers vs. shareholders/members
2. Charter / bylaw/ operating agreement / shareholder agreement provisions
3. Employment agreements

C. Life in Anticipation of Founder's Retirement: Succession Planning

1. Stock/membership awards
2. Non-qualified stock/membership options
3. Leveraged ESOPs

D. Cover Your Assets: How to Protect Your Wealth

1. Avoid fraudulent conveyance/transfer issues
2. Gifting
3. Trusts
4. Life insurance
5. Retirement plans
6. Homestead exemptions
7. Tenancy by the Entirety
8. Spousal transfers
9. Pre/Post marital agreements
10. Liability insurance

**BREAK 10:20-10:35**

**10:35-11:05**

**V. Insuring Your Succession is Protected and the Professional Liability Insurance Policy**

Melissa S. Roberts

- A. Who's Covered Today?
- B. Who's Covered Tomorrow?
- C. Considerations for Your:
  1. Merger
  2. Succession Plan
  3. Dissolution

D. Options

1. Discontinue
2. Renew
3. Combine
4. Extended Reporting Period (a/k/a Tail Coverage)

**11:05-11:35**

**VI. Managing Your Risk – New Illinois Law Affecting Design Professionals**

Thomas W. Mulcahy

- A. Implied warranty of habitability -- do design professionals warrant their designs to third parties?
- B. Thompson v. Gordon Case and its potential impact on augmenting design professionals' contractual duties
- C. Tolling Agreements -- Why you need to be careful not to lose rights against your subs
- D. Contractual Limitations -- How to reduce your risk through shortened statute of limitations and limitation of liability clauses
- E. Other updates in Illinois Law

**11:35-12:00**

**VII. Stump the Panel**

Jeffrey T. Kubes

- A. Question and Answer Session – Open Topics
  1. Audience participate
  2. Organized discussion of topics raised by audience questions