

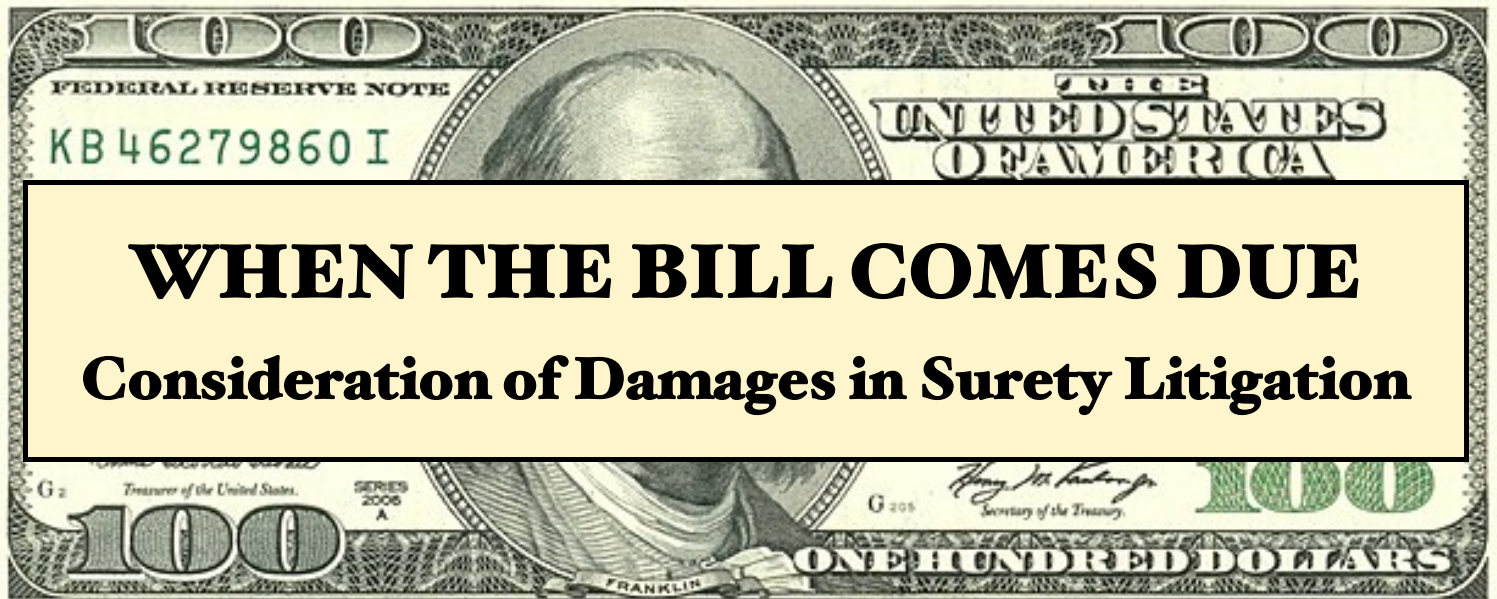
western states surety conference

illiant Surety Company
Balance of Funds Analysis
April 30, 2022

Bonded Jobs In Progress				Ref
Resistor Components - 1 -	Ball Electronics - 2 -	Madarin Computing - 3 -	Total (1+2+3) - 4 -	
\$ 12,325,000	\$ 26,450,000	\$ 22,150,000	\$ 60,925,000	20
465,625	1,052,849		1,518,474	20
12,790,625	27,502,849	22,150,000	62,443,474	
			28,663,325	20
			2,686,521	20
			133,166	20

Contract Balance :
Original Contract Amount

APPLICATION NUMBER:	Page 1
APPLICATION DATE:	7
PERIOD TO:	4/12/22
	3/31/22



WHEN THE BILL COMES DUE

Consideration of Damages in Surety Litigation

Architectural - P	44,800	8,135,000	831,500	3,609,000
Architectural - S	547,500	1,955,500	1,737,000	39,707,726
Architectural - Sp	28,125	1,785,000	19,109,850	
Electrical - SES, Pa	87,000	19,636,251		
Electrical - Distribu	961,625			
Electrical - Fixtures				
Electrical - Hookup a				
Mechanical - CDA Eq				
Mechanical - Vacuum				
Mechanical - HVAC				
Plumbing - Domestic S				
Plumbing - Waste and v				
Plumbing - Fixtures				
Fire Suppression and Ala				
Information Systems - Dis				
Change Order #1				
Change Order #2				
Change Order #3				
Warranty Assumption - Othe				
GRAND TOTALS				

THE EDGEWATER HOTEL | SEATTLE, WASHINGTON

MAY 19-20, 2022

DEAR SURETY PRACTITIONERS:

On behalf of the sponsoring firms, we ask that you please join us for the 28th Annual Western States Surety Conference! Following the success of our first virtual conference last year, we are looking forward to meeting in person this May.

This year's conference is entitled ***When the Bill Comes Due – Consideration of Damages in Surety Litigation***. Topics will include: recovery of contract damages in claims against sureties; construction damages methodologies; mitigation and consideration of funding completion on a T&M basis; damages considerations in bankruptcy; the latest trends in payment bond damages case law; the performance bond surety's exposure to consequential damages claims; and a practical discussion on recovery of damages post-judgment. The conference will also include our recurring presentations on industry statistics and trends and statutory and case-law updates among the western states.

As with previous years, every attendee will receive a copy of the ***2022 Quick Reference Guide to Western States Surety Law***, in addition to the written program materials.

The 2022 Western States Surety Conference will be held on Thursday and Friday, May 19th and 20th, in Seattle, Washington. There will be a pre-conference cocktail party/dinner held on Thursday evening, May 19th, at Ivar's Acres of Claims, and the program will be presented on Friday, May 20th, at The Edgewater Hotel.

As always, Surety company employees are our guests for this event.

Please mark your calendars and plan to join us in Seattle!

Amanda Marutzky

Watt, Tieder, Hoffar & Fitzgerald, LLP
2022 Conference Chair

AGENDA

MORNING SESSION

7:45 - 8:30 **Registration and Continental Breakfast**

8:30 - 8:40 **Welcome/Announcements/Program Introduction**
Amanda Marutzky | *Watt, Tieder, Hoffar & Fitzgerald, LLP* – Program Chair

8:40 - 9:10 **Sums "Justly" Due: A Roundup of the Latest Trends In Payment Bond Damages Case Law**
Edward Rubacha | *Jennings Haug Keleher McLeod*
Alana Porrazzo | *Jennings Haug Keleher McLeod*
Jason Stonefeld | *Liberty Mutual Surety*

Interest, retainage, attorneys' fees, lost profits, withholding taxes, material cancellation charges, rental charges, statutory penalties, "extra" work charges—these are but a handful of the types of damages commonly sought by public and private payment bond claimants. But what is the payment bond surety liable for, beyond the direct costs of labor and material? The written materials will summarize and compare recent payment court decisions from among the thirteen Western States, focusing on how these courts have analyzed the coverage of Miller Act payment bonds, Little Miller Act payment bonds, and private bonds. The panel will highlight the more unusual among these opinions, as well as the strangest payment bond claims the panelists have themselves encountered, before discussing methods a surety can employ to reduce or eliminate uncovered elements of an otherwise proper payment bond claim.

9:10 - 9:45 **Contractor Damages – How Do I Prove Them and How Much Can I Get (the ABC's)?**
Jan D. Sokol | *Sokol Larkin*
Cassie Hewlings | *Liberty Mutual Surety*
Bryce Holzer | *Travelers Bond & Specialty Insurance*

The panel will explore damage methodologies in construction litigation and the difficulties in proving construction claims.

9:45 - 10:00 **California Labor Update**
Stacie Brandt | *Booth, Mitchel & Strange, LLP*

This presentation will cover: (1) California Labor - recent developments in administrative hearing process for California Labor claims, and private claims; and (2) California Commercial Bonds – updates in claim techniques and defenses.

10:00 - 10:15 **Coffee Break**

10:15 - 11:05 **The Loss is Inevitable, All the Completion Options are Bad...Now What?**
Ron Richman | *Bullivant Houser*
David Garcia | *Sage Associates, Inc.*
Jordan Rosenfeld | *The Sutor Group*
Susan Neff | *Arch Insurance*
Brittany Rose | *Travelers Bond & Specialty Insurance*

Based on a fact pattern, the panel, which is comprised of legal, construction, accounting/finance and surety company representatives, will analyze and discuss a funding request by a financially troubled principal on a bonded project that will be difficult to relet due to certain potentially unknown completion risks and tight scheduling deadlines. Having determined that funding is not a viable option, the panel will examine alternative completion options including reletting on a time and material basis.

AGENDA

11:05 - 11:45 **Surety Law Updates - Western States**

Jennings Haug Keleher McLeod (AZ, NV, NM)

Bullivant Houser (AK, MT, WA)

Snow, Christensen & Martineau (CO, UT, WY)

Sokol Larkin (ID, OR)

Ogawa, Lau, Nakamura & Jew (HI)

Booth, Mitchel & Strange, LLP (CA – Legislative Updates)

Watt, Tieder, Hoffar & Fitzgerald, LLP (CA)

This presentation will cover case and legislative updates during the previous year for the 13 western states.

11:45 - 1:00 **Lunch (hosted)**

AFTERNOON SESSION

1:00 - 1:30 **Pecking at Cates: Using Breach of the Implied Covenant In Claims for Contract Damages**

Craig Guenther | Booth, Mitchel & Strange, LLP

Stacie Brandt | Booth, Mitchel & Strange, LLP

The recent development in California of novel claims for breach of the contractual implied covenant of good faith and fair dealing, despite the California Supreme Court's clear holding in *Cates* that sureties are not liable for tortious breach of the implied covenant, goals of the implied covenant claims, and surety defenses.

1:30 - 1:55 **A Cornucopia of Consequence: A Brief Primer on the Performance Bond Surety's Exposure to Consequential Damages Claims**

David Pinkston | Snow, Christensen & Martineau

Scott Powers | Snow, Christensen & Martineau

This presentation will provide an overview of the types of consequential damages that arise in a performance bond claim, how the consequential damages have been addressed in some courts, and some recommendations for evaluating consequential damage claims.

1:55 - 2:25 **Industry Statistics Future Trends In U.S. Construction**

Richard Tasker | Sage Associates, Inc.

This presentation will provide an overview of surety industry statistics for 2021 and a look at future trends for U.S. construction.

2:25 - 2:40 **Coffee Break**

AGENDA

2:40 - 3:25 **The Surety's Desk-Guide to Surety Claims in Bankruptcy and the "Zone of Insolvency"**
Jennifer Kneeland | *Watt, Tieder, Hoffar & Fitzgerald, LLP*
Paul Grego | *Zurich North America*

This presentation will cover a variety of issues that come up in bankruptcy including the surety's options upon discovering that a principal or indemnitor is experiencing financial difficulties or has filed bankruptcy. The presenters will explain the various types of bankruptcy claims and methods for recovery including secured, unsecured and administrative claims as well as various procedural hurdles to avoid regarding timing, formatting and estimation of claims.

3:25 - 3:45 **So, You Have a Judgment...Now What?:
The Hunt for Recovery of Damages – A Practical Discussion**
Roy Ogawa | *Ogawa, Lau, Nakamura & Jew*

This presentation will provide a practical overview of the potential for recovery of damages incurred by the Surety. Post-Judgment collection actions against the Indemnitors involve the timely search for property- real and personal; the prompt securing of rights to and interest in the property for collection, e.g. obtaining "sister-state" judgments, recordation and execution; and the assessment of potential claims against third parties who (a) may share liability for the damages caused to the surety; (b) are transferees of improperly and voidable transfers of property or (c) may be parties to Indemnitor's fraud.

3:45 - 4:00 **Questions/Wrap Up/Adjournment**

4:00 - 5:00 **Cocktail Reception (hosted)**

PRE-CONFERENCE COCKTAIL | DINNER PARTY

All Conference attendees are invited to join us for a cocktail hour and dinner on Thursday evening, May 19, 2022, from 6:00-9:00 p.m. at Ivar's Acres of Claims.

Ivar's Acres of Claims
1001 Alaskan Way | Pier 54
Seattle, WA

Additional information/directions can be found at their website by visiting Ivar's website at <https://www.ivars.com/acres>.

CONFERENCE VENUE | HOTEL ACCOMMODATIONS

This year's Conference will be held in the heart of downtown, right on the water at The Edgewater Hotel:

The Edgewater Hotel
2411 Alaskan Way
Seattle, WA 98121

Convenient Online Reservations:

<https://be.synxis.com/?adult=1&arrive=2022-05-19&chain=11910&child=0¤cy=USD&depart=2022-05-20&group=21V6ZM&hotel=29020&level=hotel&locale=en-US&rooms=1>

Call-In Reservations: (800) 624-0670 or (206) 728-7000

A block of rooms has been arranged for conference attendees. The discounted nightly room rate for conference attendees is:

\$319 City View King | \$489 Over Water King | \$539 Over Water King w/Balcony

If booking your room reservations by phone, please be sure to identify yourself as an attendee of the "WSSC" to receive the group rate. The block of guest rooms set aside for Conference attendees will be held until **Friday, April 29, 2022**. The hotel will accept reservations after that date at the group rate on a space-available basis. [Don't delay booking your room!](#)

Additional information/directions can be found at their website by visiting the hotel's website at

GOLF

While not an official part of the Western States Surety Conference, there is a golf outing arranged for Thursday morning, May 19, 2022. Full details will be sent under separate cover via email. If you are interested in participating or would like additional information, please email Edward Rubacha directly at er@jnhkmlaw.com.

SPONSORS

Booth, Mitchel & Strange LLP

Bullivant Houser

Jennings Haug Keleher McLeod

Ogawa, Lau, Nakamura & Jew

Sage Associates, Inc.

Snow, Christensen & Martineau PC

Sokol Larkin

The Sutor Group

Watt, Tieder, Hoffar & Fitzgerald, LLP

MCLE INFORMATION

Booth, Mitchel & Strange LLP has been approved as a provider of Minimum Continuing Legal Education Credit by the State Bar of California. This program will qualify for Minimum Continuing Legal Education Credit by the State Bar of California in the amount of **5.5 hours**. The program conforms to the standards for approved educational activities prescribed by the rules and regulations of the State Bar of California governing minimum continuing legal education. It is our experience that California MCLE credits are transferable to most jurisdictions. If your jurisdiction requires special information or forms for CLE approval, please contact Craig Guenther of Booth, Mitchel & Strange, LLP at (714) 480-8500 or via email to ceguenther@boothmitchel.com.

CLE and adjuster credits have also been applied for in the state of Washington and approval is currently pending.

REGISTRATION INFORMATION

Please register no later than Friday, May 6, 2022. Please complete the online Registration Form by visiting <https://lp.constantcontactpages.com/sv/fAyT2uf>.

Questions may be directed to Christine Brakman at (949) 724-9600, ext. 1200 or via email to cbrakman@sage-associates.com.

DRESS CODE

Thursday Dinner and Friday Conference — Business Casual

WESTERN STATES SURETY CONFERENCE - 2022

Registration Form

LAST NAME FIRST NAME MIDDLE INITIAL

NAME AS YOU WANT IT TO APPEAR ON NAME BADGE

FIRM/COMPANY

ADDRESS CITY STATE ZIP

PHONE FAX CELL

EMAIL ADDRESS

Thursday, May 19, 2022 | Dinner @ Ivar's Acres of Clams

- ☐ Attending
- ☐ I will bring a guest (provide guest's name below) - see additional fee
- _____
- ☐ NOT Attending

Friday, May 20, 2022 | Conference @ The Edgewater

- ☐ Attending
- ☐ NOT Attending

Dietary Restrictions (if any)

Thursday, May 19, 2022 | Golf at New Castle

- ☐ Interested ☐ NOT Interested

REGISTRATION FEES

Surety Company/Sponsor Attendee:

Non-Company/Non-Sponsor (NCNS) Attendee:

NCNS Thursday Dinner Guest:

On or before
05/06/2022

☐ waived

☐ \$765

☐ \$175

After
05/06/2022

☐ waived

☐ \$825

☐ \$175

Total Enclosed

\$

YOU HAVE THREE WAYS TO REGISTER!

ONLINE <https://lp.constantcontactpages.com/sv/fAyT2uf>

EMAIL Complete and email this registration form to:
christine.brakman@sage-associates.com

US MAIL Complete and mail this registration form to:
Western States Surety Conference
Attn: Christine Brakman
2361 Campus Drive, Suite 111
Irvine, CA 92612

PAYMENT INFORMATION

Please make all checks payable to:
Western States Surety Conference

MAIL TO:

Western States Surety Conference
Attn: Christine Brakman
2361 Campus Drive, Suite 111
Irvine, CA 92612

Tax ID No. 20-2479079