



ABA Forum on Construction Law | 2018 Fall Meeting

It's Lonely At The Top: Building a Successful Team with the Owner

October 4-5, 2018

Le Centre Sheraton Montréal Hotel
1201 Boulevard Rene-Levesque West
Montréal, Québec, Canada

Bienvenue à Montréal!

Co-Sponsor:
The Canadian College
of Construction Lawyers



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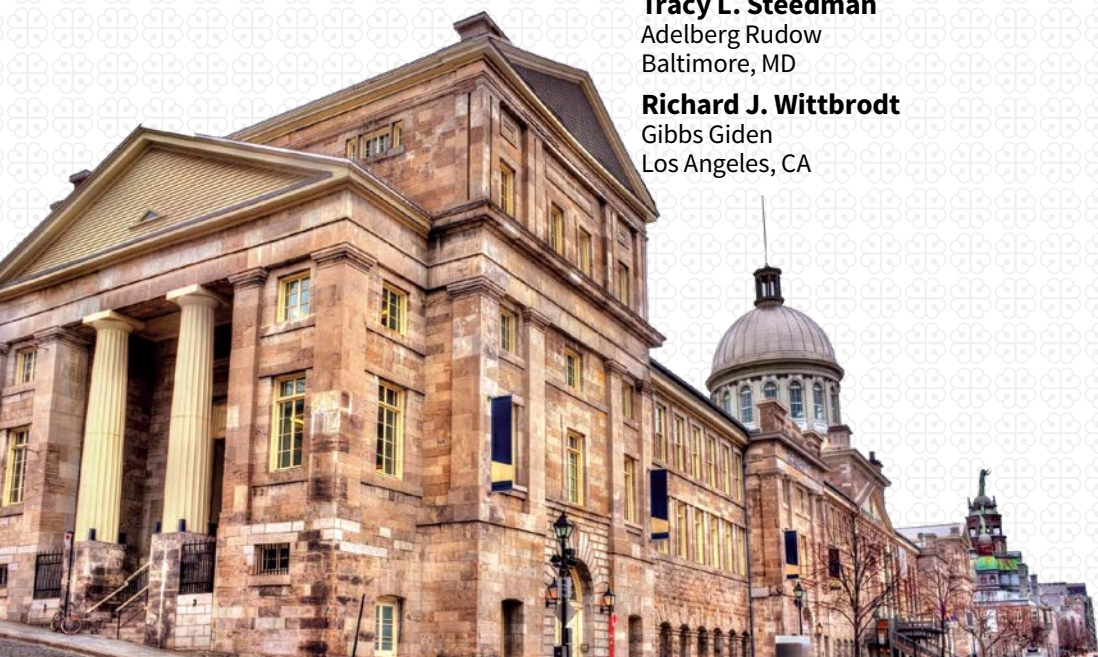
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Dear Colleagues:

Bienvenue à Montréal!

The Forum welcomes you to Montréal, Canada for its Fall 2018 Program which will focus on best practices for building a successful project team. At its core, every successful construction project begins with the selection of project participants who all share one common goal to construct a project on schedule, in budget and with minimal disputes. Our program will focus on how to achieve this goal, from the perspectives of all of the project participants, including not just the Owner but also the General Contractor, Design Professionals, Subcontractors, Lenders and other stakeholders.

The program will present the viewpoints of both in-house and outside counsel as well as consultants on a variety of cutting-edge topics including:

- Selecting the right delivery method for the project;
- Negotiating contract clauses that lead to a successful project and avoid disputes;
- Hot topics and issues with financing the project;
- Innovative insurance products that are available to reduce and allocate risks;
- Strategies for addressing disputes proactively, before they mushroom into full blown litigation;
- The evolution of P3s – what's next; and
- Key ethical considerations and issues in the procurement and construction industry.



her perspectives, both as the first female Chief Justice in Canadian history, and also as a former construction attorney.

With direct flights from many U.S. cities, Montréal is truly an international city. From the restaurants and shops which line the cobblestone streets of the historic Old Town area, to the vistas from the summit of Mont Royal, Montréal offers a variety of adventures for you to experience at the conclusion of each day.

We hope you will join us for a truly memorable program!



Our program will also feature a special plenary on Friday morning with the Right Honourable Beverley McLachlin. Until her recent retirement, Justice McLachlin served as the Chief Justice of the Canadian Supreme Court, a position she held for more than 17 years. We are truly honored and grateful that she has agreed to share

Program Schedule

WEDNESDAY, OCTOBER 3

12:00 pm – 5:00 pm	Registration Opens
5:30 pm – 6:00 pm	First-Time Attendee and Kickoff Reception (See page 7 for details)
7:00 pm – 8:00 pm	Young Lawyers Division Networking Event (See page 7 for details)

THURSDAY, OCTOBER 4

7:30 am – 5:00 pm	Registration and Exhibit Hall Open
7:30 am – 8:20 am	Continental Breakfast
8:20 am – 8:30 am	Welcome and Opening Remarks
8:30 am – 9:45 am	PLENARY SESSION 1 Getting Started: Selecting the Right Delivery Method for Your Project <p>The panelists will discuss and critique various project delivery systems and why some delivery systems may be better than others for certain types of projects. While the choice of the project delivery system ultimately lies with the Owner, the panelists will also address the issues and decision-making process from the perspectives of Design Professionals, General Contractors, Construction Managers and other affected parties.</p> <p>Howard W. Ashcraft, Jr., <i>Hanson Bridgett LLP San Francisco, CA</i> Daniel S. Brennan, <i>Laurie & Brennan, LLP Chicago, IL</i> A. Elizabeth (Lizz) Patrick, <i>Patrick Law Group, LLC Atlanta, GA</i></p>

9:45 am – 10:00 am	Networking Break
10:00 am – 11:15 am	PLENARY SESSION 2 Finding Win-Win Solutions: Successfully Anticipating and Allocating Risks in the Owner Agreements <p>No more project killing contract clauses! This session will focus on reallocating project risks between the Owner and other project participants to avoid or minimize disputes. The panelists will use the AIA documents to engage in real-life contract negotiations, highlighting key terms.</p> <p>Moderator: Lynn R. Axelroth, <i>Ballard Spahr, LLP Philadelphia, PA</i> Kristin M. Rectenwald, <i>Senior Assistant City Attorney, City of Atlanta -Hartsfield-Jackson Atlanta International Airport Atlanta, GA</i> Neale T. Johnson, <i>Smith Moore Leatherwood, LLP Charlotte, NC</i></p>

11:15 am – 11:30 am	Networking Break
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Program Schedule (Thursday, October 4 continued)

11:30 am – 12:45 pm **WORKSHOP A**

Before You Even Begin: The Lawyer’s Role in Helping the Owner Finance the Project

The speakers will take an inside look at the role of counsel in supporting successful financing efforts for the construction of a project, the different types and stages of financing, hot spot issues for construction lenders and other participants and the relationship between the lender and counsel.

Katherine Rowe, *Freehold Capital Management, LLC | Boston, MA*
David G. Drumm, *Carrington Coleman | Dallas, TX*

11:30 am – 12:45 pm **WORKSHOP B**

Controlled Insurance Programs: Opportunities and Problems

For Developers and Contractors of large multi-million dollar construction projects, wrap insurance and controlled insurance programs are attractive options. This panel will discuss new developments in OCIP/CCIP insurance issues and the interplay with traditional commercial general liability policies and other coverages.

Mark A. Boyle, *Boyle & Leonard, P.A. | Fort Myers, FL*
Gary L. Smith, *Insurance Offices of America | Tallahassee, FL*

12:45 pm – 2:15 pm **Division Lunches** Sponsored by Gowling WLG

2:30 pm – 3:45 pm **PLENARY SESSION 3**

A Wrinkle in Time: Recovery Plans, Change Orders, Liquidated Damages and the Owner’s Implied Obligations. Who is responsible when the schedule slips?

When a project goes awry and the schedule slips due to issues caused by multiple parties, the appropriate responses depend on many factors. To complete the project as quickly as possible and avoid a dispute, the actions of the Owner and other parties are critical. This interactive discussion will explore a hypothetical project, addressing a variety of scenarios, with panelists representing the roles of the Owner, Contractor and Design Professional during the construction phase.

Neil S. Lowenstein, *Vandeventer Black LLP | Norfolk, VA*
John S. Vento, *Trenam Law | Tampa, FL*
Shannon R. Onook, *Senior Legal Counsel at TransCanada Corporation | Calgary, Alberta, Canada*

Program Schedule (Thursday, October 4 continued)

3:45 pm – 4:00 pm **Networking Break**

4:00 pm – 5:15 pm

WORKSHOP C
Looking Through Different Lenses: Tactical and Technical Concerns When Representing the Owner or the Contractor
Depending on whether you represent the Owner or Contractor, different approaches should be taken during contract formation, mid-project counseling, and in dispute resolution. This panel will examine the critical issues facing Owners and Contractors at these key stages of performance and the role of counsel at each stage.
Stephen V. O’Neal, *Jones Day | San Francisco, CA*
Matthew R. Alter, *Cassels Brock | Toronto, Ontario, Canada*

4:00 pm – 5:15 pm

WORKSHOP D
P3s – Where we are, where we are going and what you need to know
The amount of P3 activity and experience in the U.S. market is building, with expanding asset classes and potentially huge new federal and state initiatives. Our panelists will discuss the lessons they have learned from their experiences negotiating P3 transactions. They will focus on what parties in the construction industry need to know when participating in a P3 project, including what makes P3s different from traditional construction contracts and how risk allocation and contract structure differ in P3 deals. Our panelists will also speak to the development of the U.S. P3 market and the expected project pipeline over the next several years.
Joseph Seliga, *Mayer Brown LLP | Chicago, IL*
Trey Moye, *Corporate Counsel – Skanska USA Building, Inc. | Atlanta, GA*

5:30 pm – 6:30 pm **Women’s Networking Reception** (See page 7 for details)

6:30 pm – 8:30 pm **Welcome Reception at Historic Windsor Station**



© Supreme Court of Canada
Photo by Roy Grogan

Diversity Program Speaker
Our diversity speaker is the Right Honourable Beverly McLachlin P.C., the recently retired Chief Justice of the Supreme Court of Canada. Her Honour was the first woman to serve as Chief Justice of Canada. She was also the longest serving Chief Justice of Canada. Prior to assuming the bench, she was the co-author of the book “The Canadian Law of Architecture and Engineering.” Ms. McLachlin will engage in a fireside chat discussing her career and providing guidance to young and diverse lawyers.









Program Schedule

FRIDAY, OCTOBER 5

7:30 am – 1:00 pm	Registration and Exhibit Hall Open
7:30 am – 8:20 am	Continental Breakfast
8:20 am – 8:30 am	Announcements
8:30 am – 9:45 am	<p>PLENARY SESSION 4</p> <p>The Art of Living Together: How Owners Can Improve Their Chances for a Successful Project</p> <p>The panelists represent Owners, Contractors, Design Professionals, Subcontractors and others and will discuss their suggestions on how Owners should properly perform and enhance their chances for a successful project.</p> <p>Moderator: Jennifer W. Fletcher, <i>Jennifer Wheatley Fletcher PC Atlanta, GA</i></p> <p>George J. Meyer, <i>Carlton Fields Tampa, FL</i></p> <p>Adrian L. Bastianelli, <i>Peckar & Abramson Washington, DC</i></p> <p>Susanna S. Fodor, <i>Scarola Zubatov Schaffzin, PLLC New York, NY</i></p> <p>Jose M. Pienknagura, <i>Executive Vice President, Chief Counsel, Risk Manager for AECOM/Hunt</i></p>
9:45 am – 10:00 am	Networking Break
10:00 am – 11:15 am	<p>PLENARY SESSION 5</p> <p>A Conversation With Former Chief Justice of the Supreme Court of Canada Beverley McLachlin</p> <p>This Diversity Program Plenary Session features a special fireside chat with the Right Honourable Beverly McLachlin P.C. who served as the 17th Chief Justice of the Supreme Court of Canada until her retirement last December, being the first woman to hold this position and the longest serving chief justice, and her good friend and colleague former Supreme Court of Canada Justice Marshall Rothstein. Justice McLachlin was also a co-author of “The Canadian Law of Architecture and Engineering”.</p>
11:15 am – 11:30 am	Networking Break
11:30 am – 1:00 pm	<p>PLENARY SESSION 6</p> <p>Ethics session: Tackling Crime and Corruption in the Construction Industry</p> <p>American and Canadian panelists will discuss Quebec’s Charbonneau Commission of 2011, which examined corruption and the influence of organized crime in the local construction industry. In detailing the wrongdoings, and describing the recommendations and reforms made to date, the panelists will focus on the ethical issues and take-aways for American lawyers in the procurement and construction industries.</p> <p>Moderator: William M. Hill, <i>Mintz Levin Boston, MA</i></p> <p>Martine Valois, <i>University of Montréal Montréal, Quebec, Canada</i></p> <p>Sylvain Lussier, <i>Osler, Hoskin & Harcourt LLP Montréal, Quebec, Canada</i></p> <p>Olivier F. Kott, <i>Norton Rose Fulbright Canada LLP Montréal, Quebec, Canada</i></p> <p>M. Hamilton (Tony) Whitman, Jr., <i>Baker, Donelson, Bearman, Caldwell and Berkowitz, P.C. Baltimore, MD.</i></p>

Special Events

Wednesday, October 3

FIRST TIME ATTENDEE WELCOME AND KICKOFF

5:30 p.m. – 6:00 p.m.

This special event welcomes those attending their first Forum meeting, and welcomes back any who are attending for the first time in five or more years. Come meet other first-timers, new Forum Members, and the leadership of the Forum. All attendees are invited to the Exhibitor Reception immediately following.

YOUNG LAWYERS DIVISION NETWORKING EVENT

7:00 p.m. – 8:00 p.m.

Great Fun, Great Lawyers and Great Opportunities. If you are 35 years of age or younger or have been practicing less than 5 years, please join us for our young lawyers division event. This event is a great way to meet and network with fellow young lawyers and learn more about the YLD and the Forum. For more information, contact Luke LaRocca at lukek@spsr-law.com.

Thursday, October 4

WOMEN'S NETWORKING RECEPTION

5:30 p.m. – 6:30 p.m.

Enjoy networking and socializing with your fellow female Forum members and other industry professionals. This reception is a great opportunity to meet colleagues and discuss the future for women in the profession.

WELCOME RECEPTION

6:30 p.m. – 8:30 p.m.

Take a two block walk to the beautiful Windsor Station for a reception open to all attendees. Tickets must be purchased for guests in advance.

Friday, October 5

CITY TOUR OF MONTRÉAL

1:15 p.m. – 4:15 p.m.

Join Forum members and guests to tour the city of Montréal. You have a chance to see landmarks, cultural institutions and explore the plateau Mont Royal. Taste what Montréal is known for - bagels, maple syrup and wine.

Separate registration fee.

Guest Activities Thursday, October 4



SPOUSE AND GUEST BREAKFAST

8:30 a.m. – 10:00 a.m.

Come and enjoy breakfast and conversation with Forum spouses and guests.

FLAVOURS AND AROMAS OF OLD MONTRÉAL SPOUSE AND GUEST TOUR

1:00 p.m. – 4:00 p.m.

This walking tour will allow you to discover the cultural and historic culinary charms of the oldest district of Montréal. The group will be transferred to Old Montréal by bus with a guide. Specialty shops and boutiques in the area are housed in old factories and showrooms from the 19th century. You will learn how the World Fair brought 67 exotic foods to Canadians.

Separate registration fee.

FORUM ON CONSTRUCTION LAW DIVERSITY INITIATIVES

Forum Diversity Scholarship Opportunity

The Forum has Diversity Scholarships available for women and minority construction lawyers, construction lawyers with disabilities, and construction lawyers from the LGBT community for the cost of registration to the Forum's 2018 Fall Meeting. See the Forum website under the announcement section or contact the chair of the Forum Diversity Committee David Theising at DTheising@harrisonmoberly.com for more information.

Member Bring a Diverse First Timer Initiative

The Forum will waive the registration fee for the first ten Forum members who register for the Forum's 2018 Fall Meeting who also register and bring along a diverse lawyer to his or her first national meeting of the Forum (a "first timer"), whose registration fee will also be waived. The Forum member and the first timer must both commit to attend the program (offer limited to one per Forum member per bar year). In order to take advantage of this offer, Forum members must contact Tamara Harrington at Tamara.Harrington@americanbar.org prior to registering for the program.

CONFERENCE INFORMATION

ENTRY INTO CANADA


Everyone entering Canada must present a passport to enter. Also, to facilitate your entry to Canada, all attendees should print and carry the Canada Border Services Agency (CBSA) letter recognizing our Conference. The letter can be downloaded from the Forum website.


Additionally, differences between Canadian and US laws can present a challenge. For example, while in many states driving while intoxicated is considered a violation or a minor offense, in Canada DUI/DWI is a potentially indictable offense that might exclude you from entry. Usually this type of problem can be resolved, however it needs to be addressed well before you present yourself to the Canadian authorities at the border. More information can be found at the Canadian government's web site: <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/inadmissibility.html>. Addressing these issues can take time, so if you have any questions please review this site as soon as possible.

The Canada Border Services Agency (CBSA) requires everyone seeking admission into Canada to provide a valid passport as proof of citizenship. Also, to facilitate your entry to Canada, all attendees should print and carry the Canada Border Services Agency (CBSA) letter recognizing our Conference being held at the Sheraton Montréal. The letter can be downloaded from the conference website at ambar.org/FCLFall18.

Entering to attend a conference or to speak at a conference where no payment is received is considered valid business activity under Canadian immigration law. No work permit is required for this activity. It is important to note that all applicants must meet the admissibility requirements for Canada. Inadmissibility includes criminal convictions. Canada does not allow those with convictions for "driving under the influence" or "operating a motor vehicle under the influence" into Canada without a waiver, which is called a "temporary resident permit."

Attendees who have been convicted of any criminal offenses should review their options to enter at: <https://www.canada.ca/en/immigration-refugees-citizenship/services/immigrate-canada/inadmissibility.html>. Individuals from countries requiring visas should contact the Special Events Unit of Citizenship and Immigration Canada (CIC) at special.events@cic.gc.ca. For those who are not US citizens and do not require a visa, please remember to complete the Electronic Travel Authorization before you travel. The website for this can be found at: <https://www.canada.ca/en/immigration-refugees-citizenship/services/visit-canada/eta/apply.html>

 **AIR TRAVEL:** Airfare and car rental discounts for ABA meetings are available through Egencia and Hertz. Go to www.americanbar.org/membership/aba_advantage_discounts.html for more information.

 **PROGRAM REGISTRATION:** Online at ambar.org/FCLFall18 or complete and return the attached registration form with your payment before September 13, 2018. Conference registrations will only be accepted when accompanied by a check or credit card. Credit card registrations may be FAXED directly to the ABA at 312-988-5850. Registrations cannot be processed without payment. If you do not receive a written confirmation by September 21, 2018, please call the ABA at 800-285-2221 to verify that your registration form and payment were received.



HOTEL INFORMATION

Le Centre Sheraton Montréal
1201 Boulevard Rene-Levesque
Montréal Quebec

Reserve via link <https://www.starwoodmeeting.com/events/start.action?id=1801116349&key=2989FB06> or call 800.325.3535

Room block cutoff date 9/3/2018 5pm CT.

CONFERENCE INFORMATION



ON-SITE REGISTRATION: Onsite registration is available for those persons who miss the registration deadline. If you plan to register at the door, you must email **Patricia.Harris@americanbar.org** 72 hours before the conference to confirm that space is still available. No cash payments accepted.



SCHOLARSHIP: A limited number of scholarships to defray tuition expenses are available for qualifying attorneys at a 50% reduction in the course fees over \$500. To request an application or receive additional information, please contact **Tamara.Harrington@americanbar.org**. Please note all scholarship applications must be received no later than 30 days prior to the program presentation.



CLE CREDIT: The ABA directly applies for and ordinarily receives CLE credit for ABA programs in AK, AL, AR, AZ, CA, CO, CT, DE, GA, GU, HI, IA, IL, IN, KS, KY, LA, ME, MN, MS, MO, MP, MT, NH, NJ, NM, NV, NY, NC, ND, OH, OK, OR, PA, SC, TN, TX, UT, VT, VA, VI, WA, WI, and WV. These states sometimes do not approve a program for credit before the program occurs. This course is expected to qualify for 12.0 hours of CLE credit (including 1.0 hours of ethics credit) for this program in 60-minute states and 14.6 hours of CLE credit (including 1.2 hours of ethics credit) for this program in 50-minute states. Credit hours are estimated and are subject to approval from each state's approval and credit rounding rules. This transitional program is approved for both newly admitted and experienced attorneys in NY. Attorneys may be eligible to receive CLE credit through reciprocity or attorney self-submission in other states. For more information about CLE accreditation in your state, visit **www.americanbar.org/groups/construction_industry** or contact **Patricia.Harris@americanbar.org**.



MEMBERSHIP: To join the Forum for \$60 go to **ambar.org/constructionlaw**.



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AMERICANS WITH DISABILITIES ACT: If special arrangements are required for disabled individuals to attend this program, please contact the Forum in writing by August 31, 2018 at the American Bar Association, 321 N. Clark Street, Chicago, Illinois, 60654. Fax: 312-988-5677. Email **Tamara.Harrington@americanbar.org**.

QUESTIONS:

If you have questions or require additional conference information, please call 312-988-5674 or email **Tamara.Harrington@americanbar.org.**



CANCELLATION POLICY:

No refunds will be granted for cancellations received after September 6, 2018. To receive a refund, minus a \$65 administrative fee, cancellations must be made IN WRITING and RECEIVED by **Tamara.Harrington@americanbar.org.**

PROGRAM REGISTRATION



2018

Fall Meeting
ABA Forum on
Construction Law

It's Lonely At The Top:
Building a Successful Team
with the Owner

Four Ways to Register



Online at **ambar.org/FCLFall18**



Fax your form to **(312) 988-5850**



Call **1.800.285.2221**



Mail the completed registration form to the
American Bar Association
Attention: Service Center - Meeting/Event Registration CI1018
321 N. Clark St. - FL 19, Chicago, IL 60654

REGISTRANT INFORMATION (Please Print)

LAST NAME	FIRST NAME	M.I.
NAME AS YOU WISH IT TO APPEAR ON ATTENDEE LIST AND NAME BADGE		ABA MEMBER ID#
FIRM / COMPANY / AGENCY		
ADDRESS		
CITY	STATE	ZIP
(AREA CODE) BUSINESS PHONE NUMBER	(AREA CODE) BUSINESS FAX NUMBER	
EMAIL ADDRESS		

REGISTRATION CATEGORY

	Early Bird (before 9/5/2018)	Regular Price (after 9/5/2018)
Non-ABA Member	<input type="checkbox"/> \$800	<input type="checkbox"/> \$880
ABA Member	<input type="checkbox"/> \$700	<input type="checkbox"/> \$760
Forum Member	<input type="checkbox"/> \$580	<input type="checkbox"/> \$640
First Time Attendee, New Member, and YLD (Email for Discount.)	<input type="checkbox"/> \$490	<input type="checkbox"/> \$540
In-House/Government/Academic (Special Rate)	<input type="checkbox"/> \$460	<input type="checkbox"/> \$520
Past Forum Governing Committee (Email for Discount.)	<input type="checkbox"/> \$385	<input type="checkbox"/> \$445
Law Student	<input type="checkbox"/> \$65	<input type="checkbox"/> \$65
Welcome Reception (Guest Tickets)	<input type="checkbox"/> \$65	<input type="checkbox"/> \$65
Guest and Spouses Breakfast	<input type="checkbox"/> \$30	<input type="checkbox"/> \$30
Flavours and Aromas Guest Tour	<input type="checkbox"/> \$65	<input type="checkbox"/> \$75
City Tour of Montréal	<input type="checkbox"/> \$35	<input type="checkbox"/> \$45

☐ Materials Only (I will not be attending and wish to order program materials.) \$150.00

☐ Enroll me as a member of the Forum on Construction Law (Regular) \$60

☐ Enroll me as a member of the Forum on Construction Law (Law Student) \$0

To receive the discount code or for registration questions please email **Patricia.Harris@americanbar.org** or **Tamara.Harrington@americanbar.org**

PAYMENT INFORMATION

☐ Check (made payable to ABA-Forum on Construction Law)

☐ Credit Card: MasterCard | American Express | Visa | Discover

CREDIT CARD #	EXPIRATION DATE	CVV
NAME ON CARD		
SIGNATURE		

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1201 Boulevard Rene-Levesque West
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Bienvenue à Montréal!

**SAVE THE DATE FOR
FUTURE PROGRAMS!**

2018 Regional Meetings

November 9, 2018
Atlanta, GA; Columbus, OH;
San Francisco, CA; Washington D.C.

2019 Midwinter Meeting

January 31 - February 1, 2019
Los Angeles, CA

2019 Annual Meeting

April 25 - 27, 2019
Hollywood, FL



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Chicago, IL 60654
ambar.org/constructionlawFORUM

