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Gregory of LeClairRyan speaks at NE chapter of ICRI meeting

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Risk management is a topic of concern for many types of professionals, none more so than those involved in the building trades. "Unfortunately, the stakes are raised in tough economic times," said veteran attorney Jay Gregory, a shareholder in LeClairRyan's Boston office who focuses his practice on construction defect litigation and the defense of malpractice actions brought against design professionals and real estate brokers.

Speaking at the Building Technology Boot Camp & New Product Trade Show sponsored by the New England chapter of the International Concrete Repair Institute at the F1 Boston facility, Gregory said, "There is a certain population of potential litigants who are always looking for someone to blame, and their numbers seem to increase in times like these. It's imperative that architects and engineers do everything they can to manage risk and limit liability in a proactive manner."

Gregory was a participant in "Risk Management for Architects and Engineers: Protocols and Procedures for a Successful Practice," a panel discussion that included architect Peter Longley, director of operations at Tsoi/Kobus & Associates; insurance broker Chris Poole, principal of Poole Professional Ltd.; and William Vanderweil, managing partner and principal of Vanderweil Engineers. The objective of the presentation was to identify potential pitfalls and exposure faced by architecture and engineering firms during the course of providing professional services to clients and to offer practical advice and suggestions on how to manage that risk.

The panelists discussed a broad range of issues related to risk management, including client and project selection considerations, agreements, obtaining appropriate insurance, practical considerations in handling projects, and what to do when claims arise.

"It is very important that firms structure their client agreements to include an in-house process for developing, tracking and, when necessary, negotiating issues as they arise," Gregory told attendees at the meeting. He stressed that agreements need to clearly define the scope of services being provided and should always include appropriate provisions covering indemnity, waiver of consequential damages, standard of care, and, if possible, limitation of liability. He also discussed the insurability of contract obligations, terms and conditions, and issues related to working without an agreement in place.

"Having a properly designed and executed agreement in place is the front line of defense in risk management for architects and engineers, and it goes a long way toward limiting potential liability claims," Gregory said. "Still, claims do sometimes arise; that's just a fact of life in the real world. How well-prepared you are and how you react to the situation at hand are critical factors influencing the ultimate outcome of any claim."

Gregory advised the attendees to be constantly vigilant for warning signs, noting, "It's best if you are aware of any potential problem before your client even knows about it." He also discussed appropriate steps architects and engineers should consider and/or take when facing a liability claim,

such as when to contact their insurance broker or lawyer, as well as possible mitigation strategies. "We live in a litigious society, and architects and engineers are more at risk than those in some other professions, especially in a difficult economy," he said. "Risk management is something you need to take seriously."

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