



## NEWSLETTER: June 2019

### **A Note from the Chairman**

These first two quarters of 2019 have been filled with activity for the SCL NA Section. We have appointed several more Regional Directors who have done a fabulous job hosting several launch events: Washington DC, Toronto, Denver have had great turnouts. In June we are having two more events in Calgary and in Houston. Two events in July will be in Atlanta and Montreal. September will have 3 events in New York, Southern California and Miami. Our membership has been climbing steadily at about 3 new members a week. Our goal is to hit 200 members by September.

I thank you all for your membership and support of growing the SCL North America Section and look forward to working with you in the future on making SCL NA a prominent contributor to the SCL International family. Any thoughts or ideas you have to assist in this goal, please share them with me, the SCL NA board or the Regional Director of your region.

- Dr. Anamaria Popescu, P.E., PSP, PMP  
Chairman, SCL North America

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# Launch Events

We are pleased to bring our members and construction professionals new to the SCL a range of launch events across North America. These are open to SCL members and their guests and are free to attend.

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## Upcoming Events

Mark your calendars and register now for these events happening soon!

June 19, 2019 - 3pm, Calgary Petroleum Club, Calgary, Alberta

June 26, 2019 - 11:00am - 1:30pm, The Houston Club, Houston, Texas

July 18, 2019, Evening (TBD), Atlanta, Georgia

July TBD, 2019-Montreal, Canada

September 12, 2019 - 4:00pm -6:30pm, Miami, Florida

September 10, 2019-TBD, Southern California

September TBD in New York, NY

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## Calgary, Alberta

On **19 June 2019 at 3:00 pm**, the SCLNA Prairies Region, along with Burnet, Duckworth & Palmer LLP, Berkeley Research Group LLC, and Driver Trett Canada, invite you to an event at the Calgary Petroleum Club, 39 5 Ave SW. Calgary. [Register now!](#)

June 19, 2019 15:00 | Calgary Petroleum Club 319 5 Ave SW, Calgary

Panel Discussion Followed by Reception

**Litigation, Arbitration and/or Adjudication:  
Construction Dispute Resolution  
Mechanisms for Western Canada**



Discussion Panel:  
Mr. Bill Kenny, Miller Thompson LLP  
Mr. Kevin O'Neill, Driver Trett Canada Ltd  
Mr. Colin Christie, MasTec Inc.

Moderator:  
Mr. David De Groot, Burnet, Duckworth  
& Palmer LLP

Presented By:  
The Society of Construction Law Prairies Region,  
Burnet, Duckworth & Palmer LLP  
Berkeley Research Group LLC  
Driver Trett Canada Ltd.

    

Please register for this FREE event on [Eventbrite](#)

## Houston, Texas

On **26 June 2019 at 11:30 am - 1:00 pm**, the SCLNA South Central Region invites you to an event at the Houston Club, 910 Louisiana Street, Suite 4900, Houston, Texas.

Please register now at: <https://sclna-register.eventbrite.com>

**Trends in EPC:  
Common Disputes &  
How to Avoid Them**

Please join the South Central Region of the SCLNA for a Lunch & Learn!

Featuring a panel discussion on current trends in Engineering, Procurement & Construction disputes, including a discussion of the contractual mechanisms to avoid those disputes.

**June 26, 2019**  
**11:30 am – 1:00 pm**  
**REGISTER NOW!**  
<https://sclna-register.eventbrite.com>

Houston Club 910 Louisiana Street, Suite 4900 Houston, Texas 77002

**- Featured Panelists -**

 Moderator Daniel Murdock Bechtel	 Shelley Eichenlaub Motiva Enterprises	 Craig Ledet King & Spalding	 Francisco Rivero Reed Smith	 David Strickland White & Case
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*Texas CLE credit pending*

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## Past Events

Thank you to the attendees, regional directors, and sponsors of these events!

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## Denver, Colorado

The SCL North America Rocky Mountain Section & Brownstein Hyatt Farber Schreck (BHFS) held a panel on Tuesday, May 28th. The esteemed international panel discussed current anti-corruption laws in Mexico, Brazil, and the United States, respectively, with an emphasis on bidding practices for public construction projects. The panel also explored the changes that may be coming to anti-corruption laws in these countries under their new political administrations.



*Feedback from an attendee:*

“With the calls for more transparency in government, and as a result in the bidding process and performance on construction projects, Judge Palma and Mr. Hernandez Garcia provided some interesting insight into changes that have been introduced in Brazil and Mexico to stop corruption in these countries. Mr. Garnett reminded us of the laws that govern us, at least at the Federal level, and the impacts if you engage in corruption here and abroad. Lesson from the esteemed panel is that corruption is not worth your, or your company’s, reputation and freedom. Excellent event and many thanks to Dr. Popescu and Kevin Walsh for putting such an interesting topic together for the first Rocky Mountain meeting. Looking forward to many more great speakers and events!”

-Barbra O'Dwyer, Project Advisors International, LLC

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## **Toronto, Ontario**



On 16 April 2019, Toronto hosted its first event of the year at Arbitration Place. The panel discussion on "*The New Adjudication Regime - What You Need to Know*" featured moderator Charles Powell (Glaholt LLP) and panelists Sharon Vogel (Singleton Urquart Reynolds Vogel LLP), Richard Bailey (Goodman Derrick LLP), Chris Larkin (FTI Consulting), Peter Stone (Systech), and Chris Buck (Dufferin Construction).

## Regional Directors

Congratulations to Francis Sirard as our new Canada East Regional Director! We are looking for regional directors for the BC Province as well. For additional information about local SCL NA events, if you have a good idea for an event, or to get more involved, please contact the regional director for your region below:

Region	State or Province included in Region	SCL Regional Director(s)	Email	Company
<b>Canada</b>				
BC Region Committee (Vancouver)	BC Province	TBD		
Ontario Region Committee (Toronto)	Ontario Province	Michael Valo Charles Powell	<a href="mailto:mvalo@glaholt.com">mvalo@glaholt.com</a> <a href="mailto:CharlesPowell@glaholt.com">CharlesPowell@glaholt.com</a>	Glaholt LLP
Prairies Region Committee (Calgary, Edmonton)	Alberta Province	Derek Sayers David de Groot	<a href="mailto:Derek.Sayers@drivertrett.com">Derek.Sayers@drivertrett.com</a> <a href="mailto:ddegroot@bdplaw.com">ddegroot@bdplaw.com</a>	Driver Trett Canada Burnet, Duckworth and Palmer LLP
Canada East	Quebec, Newfoundland, Labrador, Nova Scotia	Francis Sirard	<a href="mailto:fsirard@examine-consultants.com">fsirard@examine-consultants.com</a>	Examine Constructon Consultants
<b>United States</b>				
Florida Region Committee (Miami, Tampa, Orlando)	Florida	Andres Alva	<a href="mailto:aalva@thinkbrg.com">aalva@thinkbrg.com</a>	BRG
Mid-Atlantic Region Committee (DC)	DC, VA, WV, MD, DE	Stephen Seeger Shelly Ewald	<a href="mailto:seeger@pecklaw.com">seeger@pecklaw.com</a> <a href="mailto:SEWALD@watttieder.com">SEWALD@watttieder.com</a>	Peckar & Abramson Watt Tieder Hoffar & Fitzgerald
Midwest Region Committee (Chicago)	IL, IN, MI, WI, MO, OH, IA, MN, KS, NE	Owen Newman	<a href="mailto:OKNewman@duanemorris.com">OKNewman@duanemorris.com</a>	Duane Morris
North Pacific Region	1/2 California from San Francisco Up, OR, WA, AK	Marisa Bavand Brian Stigler	<a href="mailto:mbavand@groffmurphy.com">mbavand@groffmurphy.com</a> <a href="mailto:bstigler@exponent.com">bstigler@exponent.com</a>	Groff Murphy PLLC Exponent
Southeast Region Committee (Atlanta)	GA, SC, NC, TN, AL, KY, MS	Gregory Smith	<a href="mailto:gsmith@sgrlaw.com">gsmith@sgrlaw.com</a>	Smith, Gambrell & Russell, LLP
South Central Region Committee (Houston)	TX, LA, AR, OK, NM	Martha Daniels Travis Wingo	<a href="mailto:martha.daniels@whitecase.com">martha.daniels@whitecase.com</a> <a href="mailto:TWingo@thinkbrg.com">TWingo@thinkbrg.com</a>	White and Case BRG
Southern California Region Committee (Los Angeles)	1/2 California below San Fran Down including LA and San Diego, AZ	Matthew Syken Ted Scott	<a href="mailto:MSyken@YocomInc.com">MSyken@YocomInc.com</a> <a href="mailto:tscott@secretariat-intl.com">tscott@secretariat-intl.com</a>	Guy Yocom Construction, Inc. Secretariat International
Tri-State Region Committee (NYC)	NY, PA, NJ	Simon Braithwaite David Kiefer	<a href="mailto:sbraithwaite@bdo.com">sbraithwaite@bdo.com</a> <a href="mailto:DKiefer@KSLAW.com">DKiefer@KSLAW.com</a>	BDO King and Spalding
New England Region	MA, CT, RI, NH, VT, ME	Antonios Vytiniotis	<a href="mailto:avytiniotis@exponent.com">avytiniotis@exponent.com</a>	Exponent
Rocky Mountain Region (Denver)	CO, NM, WY, MT, UT, ID	Kevin Walsh	<a href="mailto:kwalsh@bhfs.com">kwalsh@bhfs.com</a>	Brownstein Hyatt Farber Schreck

## SAVE THE DATE

For more information: <http://www.constructionlaw2020.com/scl20>



9th International Society of Construction Law Conference

4th – 6th November 2020

Auckland, New Zealand

## 2019 International Arbitration Survey Please Participate!

This week the Queen Mary University of London in partnership with Pinsent Masons, is opening its international construction arbitration survey to respondents. Survey is available at this link: <https://survey.opinio.net/s?s=23270>  
This is, however, not the end of the empirical research, interviews will be conducted. If you would like to be part of those interviews please contact the Pinsent Masons Research Fellow in International Arbitration, Alexander Ferguson at [alexander.ferguson@qmul.ac.uk](mailto:alexander.ferguson@qmul.ac.uk).

The survey will be available until Friday 26 July 2019. We look forward to sharing the results with you in the latter part of 2019.

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## Recent Textbook Publications

Members are advised of the publication of *The Application of Contracts in Developing Offshore Oil and Gas Contracts*, 1st Edition, by Philip Loots and Donald Charrett. For information and to purchase click [here](#).

## Where Else to find SCL NA

We invite you to connect with the SCL on both [LinkedIn](#) and Twitter ([@SCLNorthAmerica](#)).

## Inaugural SCL NA Hardhat Essay Prize!

The Society of Construction Law North America is pleased to announce inauguration of its annual writing competition, "The Hardhat". The Hardhat is an annual competition for the best essay submitted to the Society in the field of construction law. There are two levels of competition, General and Student. The General category is deemed to mean any working or retired profession regardless of discipline. Students are to be currently enrolled in any degree program.

The purpose of the Hardhat competition is to solicit essays on issues of construction law and its application to the construction industry. Submissions are limited to 6,000 to 8,000 words, and to be in the form of an essay and not a research paper. An essay has been defined in a variety of ways but the best may be a prose composition saying almost everything about almost anything, and by tradition the essay is a short piece. For 2019 the Society will award six prizes as follows:

### General Category

First Prize - \$1,000,

High Commendation - \$500

Commendation - \$250

### Student Category

First Prize - \$500

High Commendation - \$250

Commendation - \$150

In addition, all entrants awarded a prize or commendation will be granted a one year complimentary membership in the Society. Candidates may select any subject matter concerning the theory or practice of construction law or its application in the construction industry. The Society encourages entries from all disciplines and levels of experience.

Entries must be submitted in Microsoft Word using the Society's template. The competition rules and the paper template can be downloaded at the Society's website: <https://www.scl-na.org/news/inaugural-scl-na-hardhat-writing-award-accepting-papers-2019>.

All entries must be received by 4.00pm Pacific Standard Time **Thursday, December 5, 2019**. Entries are to be submitted by email to the Paper Committee Chairs: Walied Abdeldayem ([walied.abdeldayem@consultidea.net](mailto:walied.abdeldayem@consultidea.net)) and Bruce Hallock ([Brucenwg@aol.com](mailto:Brucenwg@aol.com)).

The winners of the Hardhat Writing Award will be announced on **February 15, 2020** and will be recognized and offered a speaking slot at the SCL-NA annual conference. Please direct any queries to the Judging Panel Chair, Walied Abdeldayem at ([walied.abdeldayem@consultidea.net](mailto:walied.abdeldayem@consultidea.net)) or the co-Chair Bruce Hallock at ([Brucenwg@aol.com](mailto:Brucenwg@aol.com)).

## New Papers!

### ***The Prevention Principle After North Midland v Cyden Homes: Time for Change?***

**by Max Twivy**

**April 2019**

A paper based on the first prize winning entry in the Hudson essay competition 2018 which was presented to the Society of Construction Law at a meeting in London on 2nd April 2019

This paper first summarises the current law on the prevention principle. It then addresses three issues thrown up by *Cyden Homes*: the juridical basis of the principle; the relationship between extension of time provisions and the exclusion of the principle; and the prevention principle in cases of concurrent delay. The paper concludes by suggesting that the effect of setting time at large is an antiquated consequence of applying the prevention principle. The author proposes a reform of the law which would enable the prevention principle to continue to give effect to its fundamental purpose whilst better respecting the doctrine of freedom of contract.

1. The prevention principle today – 2. Juridical basis of the prevention principle: rule of law or implied term? – (i) *Cyden Homes*: implied term analysis – (ii) Rule of law analysis – The general principle: a party cannot benefit from its own wrong – The prevention principle as a rule of law – A non-absolute rule of law ('rule of construction') – (iii) Does it matter? Displacing the prevention principle 3. Extensions of time and exclusion of the prevention principle – 4. The prevention principle and concurrent delay – 5. Conclusion: suggested reform – The death of the prevention principle – Reform

Access it through SCL NA Website in the "members area" and click on "International Papers."

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## ***Global Construction Disputes - Basics on U.S. Domestic Versus International Arbitration***

**by Daniel B. Swaja**

**March 2018**

As U.S.-based contractors continue to expand their reach into the international construction arena, those contractors and their U.S. lawyers may find themselves in international arbitration proceedings that differ substantially from their experience with domestic arbitration. It is therefore important for construction practitioners to have a general understanding of the differences between being governed by common U.S. domestic arbitration rules and procedures (such as the American Arbitration Association's ("AAA") Construction Industry Rules and Procedures) versus an international tribunal (such as the International Chamber of Commerce's ("ICC") Rules and Procedures). Without focusing on a specific arbitration-body due to the varying procedures – which ultimately may be determined by the arbitrator – or varying laws, this article looks at some important considerations associated with international arbitration as well as how U.S. domestic arbitration and international arbitration differ.

Read [here](#).

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## **Board Members**

***Please feel free to reach out to any of the SCL Board Members!***

Chairman: [Anamaria Popescu](#)

Vice Chairman: [TBD](#)

Treasurer : [Simon Braithwaite](#)

Secretary: [Sharon Vogel](#)

Marketing & Communications: [Courtney Lynch](#)

International Liaison Officer: [Marianne Ramey](#)

Council Member - Membership & Website Content: [John Jerz](#)

Council Member - Paper Award and Professional Bodies: [Wallied Abdeldayem](#)

Council Member - Paper Award and Professional Bodies: [Bruce Hallock](#)

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## New Members

We are pleased to welcome the new members who recently joined the Society since April 2019:

*Suzanne Checkryn, Revay and Associates Limited*

*Ni Chroinin, BRG*

*Michael Creedon, Quantity Surveying Services Inc.*

*Brannon Dickerson, Atlas Sand*

*Gregg Jacobson, King and Spalding*

*Daniel Leduc, Norton Rose Fulbright Canada LLP*

*Aaron Potter, White and Case LLP*

*Roshanak Saeiarasi, BRG*

*Stephen Seeger, Peckar & Abramson, P.C*

*David Sinclair, SRE LLC*

*Allen Tanagho Jacobs*

**The SCL NA is now up to 134 members as of June 9, 2019!** You can search for a complete listing of all the SCL NA members on our website under the Members Only section.

SCL North America is one section out of the many international sections of the SCL which was founded in 1983 to promote the study and research in the field of construction law. The SCL has over 3,000 members internationally and in 2017 a major milestone was achieved: the final gap in the global SCL network was closed with the founding of the SCL North America Section, which includes the USA and Canada.



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