



Stein, Ray & Harris' Tenth Anniversary

On November 18, 1991, Stein, Ray & Harris opened its doors at sublet space at 225 West Washington Street with ten lawyers and a handful of other employees. Many of the clients served that day remain Stein, Ray & Harris clients today.

Steve Stein started a trial in downstate Illinois the day the firm opened - a trial he won. SRH's client immediately paid its invoice and critical cash flow was thus ensured.

The partners of the firm thank all of our clients and friends for supporting us, giving us the opportunity to prove our worth, and allowing us to become their confidants and partners in their business endeavors. We are still young and growing. We can't wait to look back on the next ten years.



2001 marks Stein, Ray & Harris' tenth anniversary. From its inception in 1991, the firm has doubled in size to 20 lawyers and made its practice first national, then international, in scope.

Left to Right (front): Stephen E. Ray, Steven G.M. Stein, Robert J. Harris

Left to Right (back): Carl L. Popovsky, Joel J. Rhiner and Jeffrey H. Winick,

Partners at Stein, Ray & Harris

SRH on the River Nile

SRH is currently representing the developer of a large hotel tower located on Rhoda Island in Cairo, Egypt. The dispute between the developer and a large Belgian contractor is over construction delays in the completion of the tower as well as cost overruns. The 870-room hotel was originally scheduled to open in early 2000, and has been delayed over eighteen months. Partner Bob Harris is representing the developer and traveled to Cairo for two weeks during this past summer. The dispute is presently pending before an international arbitration tribunal.

The general contractor has alleged delays relating to temporary and permanent power, delivery and coordination of FF&E for the Hotel (much of which was shipped overseas), and owner design changes, among other issues. The owner has counterclaimed, asserting that the general contractor owes in excess of \$6,000,000 in liquidated damages pursuant to the terms of the contract.

Forgive My Lack of a Powdered Wig, Your Lordship

For five weeks in Fall 2001, Partners Steve Stein and Carl Popovsky lived in Toronto, Ontario arbitrating a twelve million dollar (U.S.) claim against Underwriter's at Lloyd's. At issue was the date Canada's largest alcohol distillery became "mechanically complete," the delay of which was an event for which Lloyds had provided insurance coverage. The arbitration panel was extraordinarily distinguished, including a former Canadian Supreme Court Judge, Federal Appellate judge and a trial judge of repute. The case required interpretation of a complex EPC agreement to determine what the parties meant by "mechanically complete." Also at issue was the technology for drying distilled grains, an important co-product of distilleries; the rotary direct fire dryers utilized for that purpose malfunctioned.

Steve and Carl followed Ontario legal principles of substantive law and evidence without difficulty. However, local practice sometimes added levity. For instance, opposing counsel in Canada frequently call each other "my friend" - regardless of the true animosity between them. In his opening statement, Steve apologized in advance for not doing so, as it was not a phrase which came readily to him. However, he assured the arbitrators that he had no less affection for opposing counsel than opposing counsel had for him. A decision is expected in February 2002.

SRH Contributes to WTC Fund

As the nation and world started to heal from the events of September 11th, Stein, Ray & Harris felt that the firm should do its part to help aid the victims of the terrorist attacks, their families and their communities. As a result, SRH made contributions to the American Red Cross in the name of every SRH employee.

SRH Thwarts Delay Claim by Lower-Tier Subcontractor

Stein, Ray & Harris defended a delay claim brought by a lower-tier subcontractor against one of its subcontractor clients when an arbitrator found in favor of Stein, Ray & Harris' client on a nearly one million dollar construction claim. The lower-tier subcontractor alleged that SRH's client had delayed the project and owed the lower-tier subcontractor additional compensation for extras performed on the project. The Arbitrator found in favor of SRH's client on the delay claim and entered an award for only fifteen cents on the dollar for the lower-tier subcontractor. Stein, Ray & Harris Partner Joel Rhiner and Associate Jeff Osterkamp represented the Firm's client in the lawsuit.

Closing Deals

SRH is best known for resolving disputes in the construction industry, particularly trials of large and complex matters. Yet from its inception, SRH has always been proud of its ability to negotiate design and construction contracts, taking its industry expertise and lessons from the disputes it's handled to identify the most important pressure points. In 2001, however, there was a clear uptick in the volume of this work. Several clients asked SRH to be their virtual "in-house" counsel for contract reviews. Others had specific needs, like the designers of the new Chicago Bears Stadium, whom partners Steve Stein and Bob Harris represented in the negotiations with the Bears. Similarly, the University of Chicago, its hospitals, the Graduate School of Business and Weiss Memorial Hospital all asked SRH and Partner Jeff Winick to be its counsel in developing contracts for their capital improvement programs, including the University of Chicago's \$500 million projects for a new dormitory, gymnasium and research facility.

Partners Bob Harris and Jeff Winick also took on the representation of a national real estate investment trust, drafting its design and construction contracts for, among other things, a major redevelopment project throughout the United States. They also represent a national philanthropic organization on construction transactions related to the renovation of its landmark property.

Driven To Success

In mid-2001, SRH successfully mediated a settlement resulting in one of its developer clients' acquiring a well-known Lake Shore Drive property. The settlement was the result of a reversal engineered by SRH in the Court of Appeals, which ruled in SRH's favor that the client's option to purchase the property was enforceable. What makes this victory particularly significant is the fact that SRH obtained a reversal of the trial court's ruling despite the previous loss by the client's prior counsel at that level. Partners Bob Harris and Jeff Charkow handled the appeal and represented the developer in subsequent proceedings.

It's Hot In Florida

In August, SRH partner Bob Harris found himself about to pick a jury in the Florida Panhandle. The only thing hotter than the temperature was the dispute. SRH's client was the former chief financial officer of a large Florida development company who claimed his former employer had breached an agreement to compensate him and fraudulently induced him to become an employee. The jury never reached the case however, as a favorable settlement was reached on the eve of the trial.

Walter A. Netsch, FAIA Recipient of 2001 AVA Award

In April 2001, Walter A. Netsch, FAIA, received Stein, Ray & Harris' and Hobbs Group/AVA Insurance's Excellence in Architecture Award through the IIT School of Architecture. The Award, given annually, is sponsored by \$4,000 contributions each from Hobbs Group/AVA Insurance and Stein, Ray & Harris. These proceeds also establish a scholarship for a selected IIT School of Architecture student.

The Award ceremony was held at the Arts Club and Dean Donna Robbertson presented the award to Mr. Netsch, who was recognized for his numerous contributions to the built environment.

Walter A. Netsch's contributions to our nation are many and varied. His vision, talent, and skills have been associated with numerous major architectural projects in Chicago and on several university campuses.

Eleventh Annual Symposium for Design Professionals

Stein, Ray & Harris' Eleventh Annual Symposium for Design Professionals will be held Thursday, March 21, 2002, at the Hyatt Regency Chicago, located in Chicago, Illinois. The Symposium, a half-day event, will begin with a continental breakfast during registration. The Symposium will feature the following topics:

- *"Men In Black II: Last Year's Interesting Cases"*
- *"Do the Profits Justify the Peril?: Design Professionals as Design Builders"*
- *"Risky Business: State Licensing and Registration in Multiple Jurisdictions"*
- *"Signing on the Dotted Line: Necessary Contract Provisions"*
- *"Here Comes the Judge: The Duties and Responsibilities of the Architect When Deciding Disputes"*

Last year's symposium was held at the Sheraton and was attended by nearly 500 guests. The topics for 2001 were:

- *Avoiding Sexual Harassment Claims*
- *How AIA Standard Form Contracts Fail to Reflect Current Practices*
- *Tips for a Successful Negotiation*
- *Recent Developments in Case Law*
- *Forming Project Specific Entities*

Stein, Ray & Harris is committed to developing quality learning activities in accordance with AIA/CES criteria. As this program meets AIA/CES criteria, participants will receive four designated Learning Units, of which all four meet the qualifications for Health, Safety & Welfare. For more information on the upcoming Symposium, please contact Lisa Strong at 312-641-3700.

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Bids and Bytes

Once each year the American College of Construction Lawyers, composed of approximately one hundred of the nation's foremost construction lawyers, makes a two-day presentation to its members regarding issues at the cutting edge of construction law. As a founding member of the College, Partner Steve Stein has been heavily involved in the College's development and was charged in 2001 with organizing and presenting the College's program. Steve selected examination of critical issues arising from electronic transfer of construction information and requested Price Waterhouse Coopers to co-develop the program. One of the more interesting presentations concerned how the standard form design and construction contracts do not now conform to actual practices, and how that gap will widen as technology advances. SRH Partner Jeff Winick also made a presentation to the College elucidating his views on how copy-right law issues are complicated by technological development in the design and construction process.

Airport Crash Avoided

One of SRH's clients is the general contractor for a major airport construction project which was scheduled for completion in late 2001. As the project neared completion, the electrical subcontractor defaulted as a result of financial difficulties. The remaining electrical work to be performed exceeded \$50 million. SRH's client made heroic and successful efforts to rescue the project by obtaining replacement electrical contractors, at one point staffing the project with over 600 electricians and enabling the project to meet anticipated dates for completion. However, there remained the matter of who would pay for the completion effort. The defaulting electrical subcontractor's surety did not step forward to volunteer its assistance, and a lawsuit to force the surety into action would not be resolved until long after the cost to complete had been incurred.

SRH partners Steve Stein and John Walker devised a strategy to accelerate the day of reckoning with the surety by filing a lawsuit with a motion for a preliminary injunction seeking an expedited hearing on certain important issues, triggering the surety's obligations. Although this approach is not common, in this case and under the special circumstances involved, SRH believed that the court would intervene to require the surety to act immediately. On the courthouse steps, however, the surety made its promise to fully fund the completion costs, reserving its rights to protest its liability later, thus ensuring for SRH's client the necessary cash flow to complete the project. Like many of SRH's major cases, the airport involved is outside of the Chicago region.



Carl Popovsky Becomes Equity Partner

As of January 1, 2002, Carl Popovsky became a Partner of Stein, Ray & Harris. Carl graduated Magna Cum Laude from the University of Illinois College of Law in 1991. Prior to attending law school, Mr. Popovsky obtained his Bachelor of Science in Civil Engineering from the University of Illinois where he was selected to Chi Epsilon, the civil engineering honorary society, and was employed as a civil engineer by the Illinois Department of Transportation before he attended law school. Carl's training as an engineer and his ten years of experience as a lawyer provides an added measure of service for Stein, Ray & Harris' clients.

New Associates

2001 has proven to be another year of growth for Stein, Ray & Harris and three new associates have been added to the roster.

Peter McCarthy joined SRH in August. Peter received his B.S. at the University of Arizona and graduated from Notre Dame Law School, in South Bend, Indiana, in 1994. Peter comes to the firm with significant experience in representing design professionals.

Lorena Driscoll joined the firm in October. Lorena, transplanted from Indianapolis, Indiana, graduated from Indiana University Law School, Summa Cum Laude in 2000. She received her B.A. from the College of New Jersey.

Finally, Andrew Schaefer joined Stein, Ray & Harris in November. Mr. Schaefer obtained his B.A. from the University of Chicago and attended Georgetown University Law Center in Washington, DC, where he graduated in 1997.

Visit the Stein Ray & Harris Website:

www.steinrayharris.com

List of Speeches and Presentations

"Legal and Liability Considerations for Building Owners and Architects/Engineers: The Legal Perspective"

Chicago Committee on High Rise Buildings and City of Chicago
Department of Buildings - Chicago, Illinois
January 17, 2001, Jeffrey H. Winick

"Construction In Cyberspace"

ACCL 2001 Annual Convention - Phoenix, Arizona
February 23-25, 2001, Steven G.M. Stein

"Who Owns What: Intellectual Property Implications of Project Web Sites"

ACCL 2001 Annual Convention - Phoenix, Arizona
February 23-25, 2001, Jeffrey H. Winick

"Chicago Facade Ordinance: New Developments"

Structural Engineers Association of Illinois - Chicago, Illinois
March 23, 2001, Jeffrey H. Winick

"Legal Issues In the Construction Process"

Kellogg Graduate School of Business - Chicago, Illinois
April 16, 2001, Robert J. Harris

"Chicago Facade Ordinance: What You Need to Know"

International Concrete Repair Institute - Chicago, Illinois
April 17, 2001, Jeffrey H. Winick

"Limitation of Liability Clauses and Other Liability Management Devices"

Walker Parking Consultants Annual Meeting - Elgin, Illinois
April 25, 2001, Jeffrey H. Winick

"Unlocking the Code: An Advocacy of Revisable AIA Electronic Documents"

AIA National Committee on Documents - Washington, DC
July 14, 2001, Jeffrey H. Winick

"The Promise Which Seals the Deal: Using Contracts As A Sales Tool"

DBIA Great Lakes Chapter "Managing Design-Build Risks" Seminar - Chicago, Illinois
October 4, 2001, Steven G.M. Stein

"Legal Risks in E-Construction"

Price Waterhouse E-Construction Symposium - Chicago, Illinois
October 9, 2001, Jeffrey H. Winick

"Covering Your Assets: Legal Risks and How to Minimize Them"

Roof Consultant's Institute Western Regional Conference - Denver, Colorado
October 12, 2001, Jeffrey H. Winick