



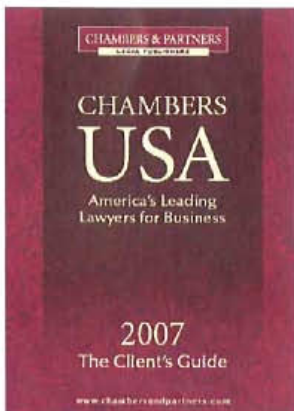
American College of Construction Lawyers Names Steven Stein President

In 1989, SRH partner, Steven Stein was one of the two Chicago lawyers who conceived the American College of Construction Lawyers. Adopting the slogan "Friend of the Project," the College limited its membership to those lawyers who have demonstrated extraordinary competence in their construction law career and have demonstrated the willingness to contribute to the industry they serve. With such a threshold for Fellowship, membership has been so far limited to 150 lawyers nationwide. Most recently, the College sponsored with Princeton University a Symposium addressing the scarcity of resources confronting the construction industry in the future (See Page 2).

Although, as a founder of the College, Steve was a logical early candidate for President, he was also the youngest member of the College at the time and felt leadership from more senior members was required for the College to thrive. After serving two three year terms on the Board, several years ago Steve was placed on the ladder to become President and was named President in February of 2009.

In addition to working extensively on the Symposium with Princeton University, in his year as President, Steve has focused on developing relationships with the Society of Construction Lawyers in the United Kingdom and Australia, establishing a liaison with Congress, promoting the relationship with American College's sister College, the Canadian College of Construction Lawyers, and initial planning for a joint symposium with the Institute of Chartered Arbitrators in London.

Chambers Lauds SRH Again



In 2008, Chambers partners once again selected SRH as a first tier construction law firm in Illinois attributing to clients the comments: "aggressive boutique with an excellent bench of attorneys" and "the premier construction law firm representing contractors in Chicago". Partners Steven Stein, Stephen Ray, Jeffrey Winick and Peter Bedard were all individually recognized.

Legal 500 Names Stein, Ray & Harris One of Four Best Construction Law Firms in U.S.

"Legal 500", one of the most respected international evaluators of law firms, named SRH as one of only four national construction law firms deserving of being ranked and commented upon in 2009. Clients of the firm reported to Legal 500 that SRH has "a demonstrated track record of out performing the many larger firms in closely contested litigation matters" and that the firm is one of the "primary choices for cases likely to go to trial". A third client stated that SRH is "highly experienced, extremely competent and well respected nationally". Partners Robert Harris, Jeff Winick, Stephen Ray, Joel Rhiner and Steven Stein were all individually recognized.

Stein, Ray & Harris Selected for E Coli Litigation

In late 2006, one of the largest restaurant chains in the United States was faced with the calamity of a number of customers becoming ill with E. coli poisoning after eating at several of its restaurants. The restaurant chain and its franchisees were subjected to dozens of claims related to bodily injuries suffered by customers and suffered property damage to its food products. As a result, there was an overall decline in patronage at all its branded restaurants, which losses eventually totaled more \$100 million.

On behalf of the restaurant chain, its affiliate and more than 500 of its franchisees, SRH partners Robert Harris, Jeffrey Charkow and Steve Tomashefsky recently filed suit in California state court seeking to hold the lettuce supplier liable for providing contaminated lettuce. In addition, the SR&H team has been charged with obtaining coverage for these losses under the lettuce supplier's multiple layers of primary and excess commercial general liability insurance. The insurance coverage lawsuit is currently pending in the federal court for the Central District of California.

Scarcity of Construction Resources Symposium at Princeton University

In November, 2009, The American College of Construction Lawyers and Princeton University jointly sponsored a Symposium addressing the future scarcity of construction resources. The Symposium Committee, chaired by SRH partner Steven Stein, utilized five panels to address the circumstances the industry might face as a result of climate change and resource limitation and the ways that the industry could accommodate them. Panels considered the following subjects:

- Climate Change as the Ultimate Environmental Imperative
- Resource Imperatives
- Innovation and Technology for Change
- Structure and Financing for Change
- Sustainable Design for the Future

The Symposium commenced with an address by Minister George Smitherman, Minister of Energy and Infrastructure, and Member of Provincial Parliament, Ontario, Canada, and the proceedings were closed by Major General Donald T. Riley, Deputy Commander, U.S. Army Corps of Engineers.

SRH not only contributed its time and effort to the Symposium organization, but contributed to its financial support. Partners Steven Stein, Robert Harris, Steve Ray and Jeff Winick all attended and SRH clients from AECOM, Kiewit Construction, Valero, Boston Financial and Fluor also attended with them.

Condo Claims Wind Down

Although the condo craze has ended, the litigation craze that went with it is just now coming to a close. In a flurry of activity involving mature cases headed for resolution, Stein, Ray & Harris has resolved or will soon resolve cases involving condominium projects throughout the country and often for high stakes. A few examples include:

Chicago downtown high-rise renovation: SRH represents a developer of a luxury condominium against the general contractor contracted to complete it. Extensive delays in the construction of the 96 unit condominium resulted in losses for both contractor and developer leading to an arbitration with hearings extended well over a year and involving 110 sessions of evidence with final evidence in December 2009.

San Francisco Luxury Condominium Project: SRH represents a general contractor of a luxury condominium against the Homeowners Association which took over operations of the Project several years ago. The HOA alleges numerous construction defects which allegedly permitted water infiltration into the units and the underground parking garage which serves the Project, as well as various mechanical, electrical and fire alarm deficiencies. After a lawsuit was filed by certain unit-owners and the Homeowners Association against the Project's Developer and general contractor, SRH has worked extensively with a court-appointed mediator to resolve specific defect claims, with the goal of reaching a global settlement shortly.

Charleston, South Carolina Luxury Condominium Project: SRH represented the general contractor of a condominium in claims brought against the general contractor by the Homeowners Association. The Homeowners Association alleged numerous design and construction defects which resulted in a laundry list of problems, including water infiltration in the garage structure, odor and smell transfers between units, and penetration of large quantities of water beneath the buildings' roof membrane systems. Shortly before trial, the case was successfully resolved by SRH by obtaining a substantial recovery from various subcontractors and their insurers.



\$60 Million Boiler Renovation Clash Resolved

Renovation of fossil fuel boilers require the work to be completed within a very limited duration "outage" making timely performance an absolute requirement. First, the work must be completed within a very limited duration "outage." In addition, the highly detailed design required to fit a spaghetti of tubes and structural components makes errors a real possibility. One of SRH's clients, the contractor for the boiler renovation, found itself in dispute with its erection subcontractor about a quality of the subcontractor's work and erection delays. The subcontractor, for its part, claimed the delays were a result of design and fabrication errors and sought in excess of \$30 million. The contractor believed an equal amount was due it because of the subcontractor's delay and defaults. In November 2009, SRH successfully mediated the case. Partners Steven Stein and Jeff Charkow were principally responsible for the firm's effort.

SRH Argues Economic Loss Rule before Washington Supreme Court

When a fire broke out on Seattle's famed mono-rail system resulting in extensive property damage, the concessionaire operating the trains made a claim against one of SRH's engineering clients for reimbursement of costs it incurred as a result of the fire. Taking the position that because it had no contract with the concessionaire and that Washington law precluded a claim for economic losses between parties not in privity, SRH obtained an order of dismissal from the Federal District Court for the Western District of Washington. The concessionaire appealed to the United States Ninth Circuit Court of Appeals who referred the matter to the Washington Supreme Court for decision on how the Economic Loss Rule would be applied under the circumstances. In October 2009, partner Jeff Winick appeared before the Washington Supreme Court to argue this important issue. This case portends further development of an important aspect of Washington state law which has been controversial.

2009 Patron of the Year Winners

The Chicago Architecture Foundation's 7th "Patron of the Year Awards," sponsored by Stein, Ray & Harris, were given on November 19 at the University Club of Chicago. The jury selected:

- Trump International Hotel & Tower,
- 300 North LaSalle (new headquarters of Kirkland & Ellis LLP),
- Chicago Cultural Center: Preston Bradley Hall Dome restoration,
- Chicago Main Branch Riverwalk,
- Charles H. Shaw Technology and Learning Center, and
- Richard J. Klarchek Information Commons, Loyola University, Chicago.

Stein, Ray & Harris has supported the Chicago Architecture Foundation and sponsored the Patron of the Year Award since its inception reflecting its belief that the CAF is an important part of Chicago's community and that patrons need to be recognized if great architecture is to be commissioned.

**CHICAGO
ARCHITECTURE
FOUNDATION
PATRON
OF THE YEAR
TWO THOUSAND NINE
SPONSORED BY
STEIN, RAY & HARRIS LLP**

SRH Contracting Client Obtains \$14 Million in Settlement

In partial resolution of an SRH contracting client's suits with two different hotel owners, one in the northeast and another in the southwest, SRH assisted the client in obtaining \$14 million in settlements, \$7 million for each project. In the southwest, the dispute centered upon delays resulting from the owner's failure to provide design information on a timely basis. The hotel resort in the northeast suffered delays as a result of design deficiencies affecting both concrete and structural steel. Certain claims remaining against the projects' designers are still to be resolved and active litigation remains in both forums.

CM's Right to Liens Established in Case Argued by SRH

In *AMEC v. First Midwest Bank*, SRH successfully defended an appeal brought by the construction lender with respect to the Trial Court's granting of judgment in favor of SRH's client, AMEC, on its mechanic's lien for construction management services. First Midwest Bank appealed this finding, arguing that construction management services were not lienable under Illinois law. Specifically, First Midwest argued that a construction manager was not a "contractor" as the term is defined in the Illinois Mechanic's Lien Act ("Act"). First Midwest also argued that because AMEC was identified as the Owner's "agent" in its construction management agreement, it was not entitled to lien rights under the Act.

In a case of first impression as to the lienability of construction management services in Illinois, the Illinois Appellate Court rejected First Midwest's arguments and upheld the Trial Court's finding that construction managers are entitled to lien rights under the Act. The Court agreed with SRH's argument that the language "manage a structure under construction thereon" contained in the section of the statute defining the term "contractor" expanded the definition of "contractor" to construction managers, such as AMEC. The Court also rejected the argument that because AMEC was identified as the Owner's agent, it was not entitled to lien rights, holding that the Act does not contain any "agency exception." The appeal was argued by Peter Bedard. The opinion is reported as *Cordeck Sales, Inc. v. Construction Systems, Inc.*, 382 Ill. App. 3d 334, 887 N.E.2d 474 (1st Dist. 2008).

Noteworthy

Joel Rhiner was elected to the Steering Committee of Division Four of the ABA's Forum Committee on Construction

Steven Stein was retained as a member of the Steering Committee of Division 8 (International) of the ABA's Forum Committee and serves as liaison with the International Bar Association, International Construction Projects Committee

Steven Stein was named Chair of the Dispute Resolution Subcommittee of the International Bar Association, Construction Projects Committee

Joel Rhiner was elected to membership in the Society of Illinois Construction Lawyers

Steven Stein was named Chair of Board Governance of the Chicago Architecture Foundation

Stephen E. Ray was named to the Board of Directors of ACE Mentor of Illinois, Inc., the Illinois chapter of the nationwide ACE Mentor program.

Jeffrey Charkow was co-author of a chapter, Revenue Recognition and Other Construction Accounting Issues, in the ABA's soon to be published "Construction Accounting for Attorneys"

Who's Who

Who's Who Recognizes Stein, Ray & Harris as "One of the best construction firms in the whole country"

Who's Who Legal has extensively reviewed the credentials and reputation of U.S. construction lawyers and identified Stein, Ray & Harris as one which clients have recommended for work nationwide. Partners specifically named were: Bob Harris, Stephen Ray, who was referred to as "the lawyer I would want on my side for any type of construction dispute," and Steven Stein who was described as "a great lawyer with an unbelievable client following."

Visit the SRH Website:

www.steinrayharris.com

to read more about:

- The firm's national and international construction litigation practice and experience
- Individual Attorneys
- Past Annual Reports
- Additional SRH news and publications

List of Presentations



"Mechanics Liens on Private Construction Projects"
ICLE - UBS Tower & Conference Center
Chicago, Illinois
February 1, 2008 • Peter J. Bedard

"Proof of Selected Construction Claims and Damages"
ICLE - Mechanics Lien Seminar
February 1 and 14, 2008 • Joel J. Rhiner

"Anatomy of a Construction Contract: The Good, The Bad and The Ugly"
30th Annual Corporate Counsel Institute
University of Texas
February 8 - Houston, Texas • Stephen E. Ray
February 29 - Dallas, Texas • Stephen E. Ray

"Winds of Change? The Consensus DOCS"
American Bar Association
Forum on the Construction Industry
Chicago, Illinois
October 11-12, 2008 • Steven G.M. Stein

"Are 'Right to Cure' Statutes in Need of Repair?"
Mealey's Construction Defect Claims & Coverage Super Conference
Las Vegas, Nevada
November 6, 2008 • Stephen E. Ray

"Construction Law Issues"
Cole Taylor Bank
Rosemont, Illinois
November 26, 2008 • Steven G.M. Stein

"Use and Abuse of Scheduling Tools"
ICLE - UBS Tower & Conference Center
Chicago, Illinois
December 19, 2008 • Steven G.M. Stein

"Non-Pecuniary Limitation of Liability in Design Services Agreement"
SOICA Meeting
Chicago, Illinois
March 17, 2009 • Steven G.M. Stein

"Payment Security Risk Analysis"
Large Firm Roundtable - OWP&P
Chicago, Illinois
March 27, 2009 • Steven G.M. Stein

"Integrated Project Delivery: Partnering with Teeth?"
AIG Construction Solutions Advisory Board
AIU Holdings
New York, NY
April 8, 2009 • Steven G.M. Stein

"Drafting & Negotiating Tomorrow's Construction Contracts Today"
2009 Practicing Law Institute
New York, NY
May 7, 2009 • Jeffrey H. Winick

"A Legal Perspective on Construction Contracts"
Northwestern University - Kellogg School of Business
Chicago, Illinois
October 14, 2009 • Charles H. Wahtola III