



# Confronting Risk: Emerging Practice Areas and Legal Trends

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# Agenda

- Emerging Practice Areas
  - Working with Indian Tribes and Tribal Law
  - Doing Business Overseas
  - Building Information Modeling (“BIM”)
- Emerging Legal and Contract Trends
  - Expansion of Duty
  - Client Expectations of Perfection
  - Standard of Care/Code Compliance Clauses

# Working with Indian Tribes and Tribal Law

- Opportunities and Project Types
- Risks
  - Tribal Law
  - Coverage Implications
- Suggestions for Mitigating Risk
  - Coverage Review
  - Contracts
  - Record of Tribal Court Proceedings

# Doing Business Overseas

- Opportunities and Reasons for Doing International Work
- Risks
  - Decennial Liability
  - Requirement of Local Admitted Coverage
  - Legal Climate
  - Concerns with Local Office or Physical Presence
- Suggestions for Mitigating Risk
  - Contracts
  - Partnering with Another Firm with Established International Practice
  - Careful Risk/Reward Analysis
  - Insurance
  - Limited Scope

# Building Information Modeling ("BIM")

- Definition
- Application to Geopprofessionals
- Benefits
  - Early identification of design conflicts
  - Greater efficiency and ROI
  - Competitive Edge
  - Enhanced constructability, safety
  - Streamlined construction documentation
  - Real-time project collaboration
  - Data storage to facilitate operation and maintenance

# BIM

- Risks
  - Cost
  - Learning curve
  - Blurred lines of responsibility, standard of care
  - What is the deliverable?
  - Who is the designer and who owns the model?
  - Control, security and protection of BIM data
  - Delays due to information input
  - Corruption of data, viruses
- Suggestions for Mitigating Risks
  - Contracts
  - Training

# Emerging Legal and Contract Trends

- Expansion of Duty
  - Beacon Residential Community Association v. Skidmore, Owings & Merrill, LLP (CA 2014)
  - Strategies to Limit Duty to Non-Clients
- Client Expectations of Perfection
  - Misconception of Design as a Product or Commodity
  - Unrealistic Expectations
  - Suggestions for Managing Expectations and Mitigating Risk

# Emerging Legal and Contract Trends

- Standard of Care/Code Compliance Clauses
  - New Case Law: School Board of Broward County v. Pierce Goodwin Alexander & Linville (FL 2014)
  - TransDulles Center, Inc. et al. v. USX Corporation (VA 1992)
- Recommended Language



# Questions?



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