

Practical Strategies for Successful International Construction Projects

✧ Program Details ✧

Unique Hotel
São Paulo, Brasil
November 20 and 21, 2006

An Invitational Conference for Leaders of
the Construction Industry in South and
Central America Organized by:

Peckar & Abramson, P.C., USA

The Nielsen-Wurster Group, Inc., USA

Pinheiro Neto Advogados, Brasil



PINHEIRONETOADVOGADOS

Programme

Key Organizations

[Peckar & Abramson, P.C.](#)

Peckar & Abramson is one of the United States' leading construction law firms, routinely handling clients' needs throughout the United States and the world. Peckar & Abramson's International Construction Practice Group assists clients in all aspects of international projects. The firm applies its extensive international experience to assist clients in contract drafting and negotiation, including project structuring, ongoing project support and dispute resolution for projects around the world. Our attorneys have provided support to projects in over 40 countries.

[Pinheiro Neto Advogados](#)

Pinheiro Neto Advogados is one of the leading law firms in Latin America. The firm, founded in 1942, has offices in São Paulo, Rio de Janeiro and Brasília, is a member of Club de Abogados, and maintains worldwide affiliations with other leading law firms. Pinheiro Neto Advogados offers full-service coverage to its clients both in domestic and international matters throughout the world. The firm was the first in Brazil to have dedicated a team to Construction Law matters and has won several awards related to its excellence in providing legal services. In 2005 it was elected "South American Law Firm of the Year" by Chambers and Partners and in 2006 it was elected "Leading Law Firm of Brazil" by Who's Who in Legal Business.

[The Nielsen-Wurster Group, Inc.](#)

The Nielsen-Wurster Group, Inc. is recognized worldwide as a premier provider of engineering and management consulting services to the legal, regulatory, engineering, industrial, commercial and construction sectors. For over 28 years, Nielsen-Wurster has performed risk management, management consulting, and construction dispute resolution assignments on major ventures throughout the world. Nielsen-Wurster's extensive global project expertise brings a wide diversity of project types, conditions, contracts, and performance perspectives to its work.

Keynote Speakers

Júlio C. Bueno, Pinheiro Neto Advogados, Brasil
Patricia D. Galloway, The Nielsen-Wurster Group, USA
Robert S. Peckar, Peckar & Abramson, P.C., USA
Gilberto Giusti, Pinheiro Neto Advogados, Brasil
Jerry P. Brodsky, Peckar & Abramson, P.C., USA
Marcelo Correa, The Nielsen-Wurster Group, Brasil
Claudio Dall'Acqua, The Nielsen-Wurster Group, Brasil
Ark M. Latt, Turner International, USA
Carlos Marcatto, EDP Energias do Brasil, Brasil
Kris R. Nielsen, The Nielsen-Wurster Group, USA
Luis Rey, The Nielsen-Wurster Group, USA
Michael Shane, Atkin Chambers, UK

Conference Schedule

At a glance...

Day 1- November 20, 2006

9:00am Introduction-
Opening Remarks-
Julio Bueno

9:15am Session 1

10:30am Coffee Break

11:00am Panel Session 2

11:45am Panel Session 3

12:15pm Luncheon

2:00pm Afternoon Workshop-
Introduction-
Claudio Dall'Acqua

2:05pm Panel Session 4

2:30pm Panel Session 5

3:30pm Coffee Break

4:00pm Panel Session 6

4:30pm Panel Session 7

Day 2- November 21, 2006

9:00am Simulated Mediation

2:00pm Afternoon PPP Workshop

Keynote Speakers

Júlio C. Bueno

Júlio César Bueno is a partner at Pinheiro Neto Advogados in São Paulo. Mr. Bueno has extensive experience in construction, real state and complex infrastructure projects often involving multi-national parties and governments. Mr. Bueno's practice focuses both on contract negotiation and dispute resolution techniques such as litigation and dispute board matters. Mr. Bueno is a member of several institutions related to the construction industry in Brazil, a member of the UK Society of Construction Law and of the Dispute Board Review Foundation. Mr. Bueno has been the only Brazilian attorney nominated by the WHO's WHO in Legal Business Annual Report for the Construction Law practice. Mr. Bueno holds a Masters degree in Comparative Civil Procedural Law from the University of Cambridge, England (LLM 1996) and a Doctorate Degree in Civil Procedural Law at the University of São Paulo (Ph.D 2001)

email: juliobueno@pinheironeto.com.br

Patricia D. Galloway

Ms. Galloway is the Chief Executive Officer and a Principal of The Nielsen-Wurster Group and is a registered engineer in various US states and in many international jurisdictions.

Ms. Galloway has extensive international experience having traveled to more than 87 countries and having worked on numerous domestic and international engagements. She is the first woman president of the American Society of Civil Engineers, the oldest engineering society in the United States.

Ms. Galloway's extensive Dispute Resolution experience includes analyses of schedule delay (delay, disruption, acceleration, early completion, and productivity and inefficiency), cost impact, damages quantification and other issues many of which have been in relation to projects in Latin, Central and South America.

Ms. Galloway has written and lectured extensively on the subject of risk management and has served as an in-house instructor on risk management for both Owners and Contractors. She has served as an advisor to multiple Owner and Contractor clients and has assisted and been actively involved in developing and setting up Risk Management corporate-wide programs for multi-national companies in the US and around the world.

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Robert S. Peckar

Robert S. Peckar, the Managing Partner of Peckar & Abramson, has been a recognized leader among the construction bars both within the United States

and internationally and was recently named as The 2006 World's Leading Construction Lawyer by WHO'S WHO LEGAL, The Official Research Partner of the International Bar Association.

While Mr. Peckar has obtained substantial recoveries in litigation and arbitration, he has gained international recognition for formulating creative, multimillion dollar settlements to complex multi-party construction disputes and the implementation of alternative dispute resolution mechanisms to achieve expeditious solutions to complicated construction disputes.

Mr. Peckar serves as General Counsel to major national contractor organizations in the U.S. and is the author of many articles on construction law topics; Mr. Peckar is also a contributing author in several notable construction law textbooks and international publications such as ENR. Mr. Peckar is a Fellow at the American College of Construction Lawyers. email: rpeckar@pecklaw.com

Gilberto Giusti

Mr. Giusti is a partner at Pinheiro Neto Advogados, with leading experience in arbitration and litigation matters. Mr. Giusti has a law degree from University of Sao Paulo School of Law and is a member of the American Arbitration Association and the International Bar Association.

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Jerry P. Brodsky

Jerry Brodsky is a partner at Peckar & Abramson's Miami office. Born in Lima Peru, Mr. Brodsky is an industrial engineer and an experienced trial lawyer who concentrates his practice in the areas of construction, real estate, transportation and commercial litigation with a focus on multi-national projects in the United States, the Caribbean, Latin America, Central and South America.

Mr. Brodsky handles a wide range of matters for international clients and has extensive experience dealing with cases involving complex construction disputes including construction defects, delay claims and bid protests as well as other multi-national commerce disputes.

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Marcelo Correa

Mr. Correa is currently a Senior Consultant Engineer for the infrastructure sector in Brazil, mostly involving the Oil and Gas industry, and he has recently joined The Nielsen-Wurster Group as their representative in South America.

Mr. Correa has a Civil Engineering Degree from E. Politencnica at the University of São Paulo, as well as a Business Administration and Economics degree from Mackenzie University. He has complemented his graduate studies with several post graduate courses at several institutions in the United States.

Mr. Correa has an extensive background in man-

aging large EPC contractors in Brazil, in project management, engineering, procurement, construction and electro-mechanical work for large projects constructed in Brazil and in foreign countries in Latin America and West Africa. He has worked for twenty six years at the local office of ABB Lummus, SETAL, and acted as president and CEO during his last seven years with ABB. After an assignment at the Houston division of Lummus, he returned to Brazil and joined TECHINT Engenharia, the local arm of TECHINT INTERNATIONAL, as their President and CEO. In 2001 Mr. Correa opened his own consulting firm, REMAC, acting both in Brazil and some other countries.

Mr. Correa is an active member of several prestigious engineering associations, such as ABEMI-Ass. Brasileira de Engenharia Industrial, ABDIB, ONIP- Organizacao Nacional para Industria de Petroleo e Gas, UPADI- Pan American Federation of Engineers Associations, where he is a member of the Board as well as the Alternate Director for NSPE/ASCE.

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Claudio Dall'Acqua

Mr. Dall'Acqua is the Chairman and Principal Owner at Dall'Acqua Engenharia e Construcoes Ltda., and has recently joined The Nielsen-Wurster Group as their representative in South America.

Mr. Dall'Acqua has more than three decades of experience as a Civil Engineer and extensive experience as General Contractor in the construction industry and engineering special services. He has built more than two million square meters of various types of construction plants for Brazilian and multinational companies, governments, real estate contracts and others. Mr. Dall'Acqua has post graduate studies in Business Administration and Engineering for Safety Work in Construction.

Mr. Dall'Acqua combines an extensive background in engineering jobs with leadership in the Americas' engineering community, as the President of UPADI- Pan American Federation of Engineers Associations representing more than 2.5 Million engineers in 27 countries.

Mr. Dall'Acqua has received several awards, medals of recognition and diplomas of excellence during his professional career. He has participated in several dispute resolution cases and administrative boards. Currently, he is a member of the Arbitration Chamber of Instituto de Engenharia in São Paulo, Brazil.

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Ark M. Latt

Mr. Latt is a Senior Operations Manager with Turner International. Turner International is the overseas arm of Turner Construction Company, one of the largest general builders in the United States. Globally, Turner completes about 1,500 projects each year with a staff of over six thousand; last year Turner's construction volume

exceeded \$14 billion US dollars.

Mr. Latt has a five year Architectural Degree from New York Institute of Technology and has spent the last 13 years of his career with Turner in both US and internationally based positions, serving in project management and business unit management capacities. Currently Mr. Latt reports directly to the President and CEO and has direct operational responsibilities in the five regions in which Turner operates globally. email: alatt@tcco.com

Carlos Marcatto

Carlos Eduardo Marcatto is the Senior Legal Counsel of EDP- Energias do Brasil, with extensive experience in the construction business.

Mr. Marcatto has a Law Degree from the University of São Paulo Law School and has acted as a professor at several academic institutions.

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Kris R. Nielsen

As the Chairman and a Principal Owner at The Nielsen-Wurster Group, Mr. Nielsen provides strategic direction to the firm's operations, subsidiaries and affiliated companies, as well as direction to engagements throughout the Risk Management, Management Consulting, and Dispute Resolution Divisions.

With an extensive background in law, engineering, construction and project management, including controls and scheduling, Mr. Nielsen has presented expert witness testimony in legal proceedings around the world and served as a chairman and member on dispute review boards, as well as an arbitrator and mediator on complex international dispute matters.

Mr. Nielsen has performed numerous engagements on engineering and construction projects in over 60 countries. email: krnnwg@aol.com

Luis Rey

Mr. Rey is the Vice President of Dispute Resolution and Manager of the Texas Regional Office of The Nielsen-Wurster Group. As the Vice President of Dispute Resolution Services, Mr. Rey oversees all engagements and provides training, guidance, and mentoring to Nielsen-Wurster's employees worldwide, as well as consistency with respect to how Nielsen-Wurster conducts its expert analyses and prepares its experts, serves as Project Director, Engagement Manager and Lead Expert.

As a former Project Director and JV Director for Halliburton-KBR, Mr. Rey has over 15 years of extensive and diversified experience in the offshore oil and gas industry. His experience includes project management (large EPC projects), commercial management (change orders, claims and extensive negotiations), contracts administration, project controls and structural design of marine structures. email: ReyNWG@aol.com

Michael Shane

Mr. Shane is a full-time Mediator and Arbitrator, having arbitrated more than 200 complex international cases and having mediated over 1500 major international construction and commercial disputes relating to vertical (buildings, including hotels and hospitals), horizontal (highways, bridges and transport systems) and subsurface projects as well as power systems, oil and gas facilities (on and off shore) and process plants including environmental issues relating to many of them. Many of these disputes have involved complex design liability issues. In addition to construction related disputes, Mr. Shane has mediated a multitude of commercial, intellectual property and finance cases.

Prior to commencement of his mediation/arbitration practice, he was Executive Vice President, General Counsel, Corporate Chief Operating Officer and Director of URS Corporation, a New York Stock Exchange-listed professional services company engaged in engineering, architecture, project management and environmental sciences in the U.S.

Mr. Shane is a member of the Hong Kong International Arbitration Centre and Hong Kong Government's list of approved and qualified mediators. He has taught basic and advanced mediator training courses for the American Arbitration Association; the Australian Commercial Disputes Centre, Sydney; and the Hong Kong International Arbitration Centre and has lectured and written extensively on the subject of Alternative Dispute Resolution.

Mr. Shane holds a Master of Laws from the University of London and a JD from Boalt Hall School of Law, University of California, Berkeley.
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Session 1

Contract Drafting and Negotiation Workshop Key Contract Provisions- Negotiating for Success

Day 1
9:15am-10:30am

Introduction to Various International Standard Forms

This session will provide an overview of the most commonly utilized contract forms for international construction projects. Various forms used for typical contracting arrangements and business terms will be discussed. Emphasis will be on the FIDIC Rainbow Series and the American Institute of Architects (AIA) Forms.

Speakers:

Júlio Bueno
Jerry Brodsky

Session 2

Hands-On Contract Negotiation and Risk Allocation

Day 1
11:00am-11:45am

This session will analyze common and key issues that arise in contract negotiations. Typical negotiation issues will be discussed in the context of various relationships: Construction Manager-Owner, Contractor-Owner, Contractor-Subcontractor and Owner-Design Professional. The discussion and analysis will be from the perspective of risk allocation and the balance between minimizing contractual risks and being able to negotiate contracts with reasonable terms for all contracting parties.

Speakers:

Júlio Bueno
Jerry Brodsky

Session 3

Practical Experiences With Contract Negotiation and Risk Allocation

Day 1
11:45am-12:15pm

This session will cover practical experiences with contract negotiation and the proper allocation of risks for the contracting parties. Contracting experiences from the Power, Oil and Gas, Transportation, and Infrastructure industries will be shared, as well as various contracting strategies. The proper risk allocation in construction contract can assure a reliable risk management system that ensures that risks are analyzed in a uniform manner, are transparent to management and provide the necessary level of accountability between the parties.

Speaker:

Kris Nielsen

Session 4

Preserving the Right to Claim

Day 1
2:05pm-2:30pm

ProjectNotice TM is a new software risk management tool that Peckar & Abramson has developed for the construction industry. The program is designed to provide instant access to notices mandated by each specific contract for any notice-triggering event which may occur on a specific project. For every event that requires notice, the program generates a separate letter or other required form of notice as well as instructions on how, when and to whom notice should be sent.

Speaker:
Jerry Brodsky

Session 5

The Winning Contractor and Expert's Recipe for Claims and Disputes

Day 1
2:30pm-3:30pm

This session will cover the aspects of Project Administration and Project Controls in the areas of: contract and subcontract administration, record keeping, progress reports, correspondence, schedules, cost control, invoicing, and risk registers, which allow contractors to properly prepare for possible future claims and experts to efficiently use the information as part of their preparation. The Nielsen-Wurster Group's "Phased Approach" to Dispute Resolution will be explained, including preliminary evaluation, detailed analysis and arbitration or litigation support.

Speaker:
Luis Rey

Session 6

Typical ICC Arbitration Timetable for the Presentation of Expert Reports- Developing Strategies for Success

Day 1
4:00pm-4:30pm

This session will introduce a typical ICC arbitration timetable, including the request for arbitration, appointment of arbitrators, development of terms of reference, presentation of claim memorials, rebuttals, expert reports, witness testimonies, preparation for hearings and post hearing submittals. Also, practical strategies for each of the above steps will be discussed.

Speaker:
Kris Nielsen

Session 7

Effectively Presenting and Defending Claims in International Arbitration

Day 1
4:30pm-5:30pm

This session will cover the key aspects for effectively preparing and defending claims in International Arbitration. Topics will include: setting up the best strategy, identification of strengths and weaknesses, assembly of the right team (legal and project experts), selection of the right expert, claim methodologies and structure, preparation of the expert report, and preparing for the defense.

Speakers:

Patricia Galloway
Marcelo Correa

Session 8

Simulated Mediation

Day 2
9:00am-12:30pm

The purpose of this session is to allow the attendees to actually experience mediation- just as if they were participating in a real mediation. The simulated mediation session walks participants through minute-to-minute events that unfold during a typical mediation of a sophisticated international construction dispute. Participants will experience how negotiations and appropriate techniques are used to facilitate complex project issues and overcome cultural differences and personal temperament, resulting in mutually agreeable solutions to difficult international project problems.

The fact pattern focuses on expansion of a metro line with at grade and viaducts on piles. Complex project problems such as project delays caused by the owner, deviation of the contractor from project specifications and calculation of liquidated damages will be some of the matters raised that the parties will attempt to resolve in this session.

Cast:

Narrator: Robert Peckar

Mediator: Michael Shane

Role Players Representing the Owner

Owner: São Paulo State Transport Secretariat

Owner's Attorney: Júlio Bueno

Owner's Claims Consultant:

Patricia Galloway

President:

Carlos Marcatto

Owner's Representative:

Marcelo Correa

Role Players Representing the Contractor

Contractor's Attorney:

Jerry Brodsky

Contractor's Claims Consultant:

Luis Rey

Brazilian Contractor part of a joint venture with a Spanish company: Claudio Dall'Acqua

Spanish Contractor part of a joint venture with a Brazilian company: Gilberto Giusti

American Contractor

Representative: Ark Latt

Session 9

Private Public Partnerships Workshop- Practical Guidelines

Day 2
2:00pm-5:30pm

- 1) Key Elements of Public Private Partnerships
 - a) Type of PPP Agreements
 - i) Design Build Operate and Maintain
 - ii) Pre-Development Agreement
 - iii) Investor Finance Concession
 - iv) Tax-exempt Financed Concession
 - b) Contracting
 - c) Compliance with environmental agreements
 - d) Compliance with local legislation
 - e) Procurement
 - f) Right of way acquisition
 - g) Project finance
 - h) Delivery and maintenance
 - i) Dispute resolution
- 2) Experiences with PPPs in Australia by The Nielsen-Wurster Group

Speakers:

Kris Nielsen
Jerry Brodsky
Júlio Bueno

General Information

Hotel Accommodations

Unique Hotel

Phone: (+55 11) 3055-4709

Fax: (+55 11) 3889-8100

www.hotelunique.com.br

www.skye.com.br

For special rates, please call Unique Hotel directly and inform them that you are a participant at the conference.

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São Paulo: Latin American Capital of Business Tourism

São Paulo is the fourth largest city in the world, the Latin-American business capital and the main gate for foreign visitors to Brazil. Approximately 1,400,000 tourists arrive in the city's airports every month, coming from hundreds of countries, eager to enjoy its commercial and cultural attractions.

São Paulo is the location of more than 75% of the most important domestic fairs, the largest Brazilian state capital and rich both in business opportunities and in leisure and entertainment. More than 15 million people participate in thousands of events every year, like summits, conventions, forums or exhibitions.

To better service these needs, the city has an enviable infrastructure. There are more than 250,000 square meters of useful space in structures built specially for holding fairs, conferences

and exhibitions. With an additional 70,000 square meters available in the hotel network, the total adds up to approximately 430,000 square meters for all kinds of events. As seen at the XI UNCTAD (a UN Conference) in 2004, the state capital's capability of hosting International events is well proven.

São Paulo is the venue for the Brazilian Grand Prix, the Carnival festivities, the International Film Festival and the Biannual Art Exhibition (Bienal de Artes). The service network of the city is well prepared to receive the public participating in these events. Its hotels and culinary offerings are ranked among the best in the world.

Big Broadway musicals and international concerts make São Paulo "The Artistic Capital" of the country and is among the world's top 50 metropolises that receive the most events.

São Paulo is the perfect destination to bring together business and high quality leisure.

Useful Phone Numbers

Congonhas Airport: (11) 5090-9000

São Paulo International Airport (Guarulhos): (11) 6445-2945

Police: 190

Directory Information: 102

São Paulo City Hall: 156 (Bus itineraries / Traffic / Other services)

Emergency: 192

Bus Terminals Tietê / Barra Funda / Jabaquara: (11) 3235-0322

São Paulo Convention & Visitors Bureau: (11) 3289-7588

São Paulo Tourism: (11) 6226-0400