



Three Key Takeaways From Saul Ewing Arnstein & Lehr's Construction Risk Management Symposium 2019

From safety practices to cyber threats to labor and employment challenges, the risks faced by the construction industry are best managed by staying ahead of a rapidly changing environment. This was the central theme at Saul Ewing Arnstein & Lehr's recent Construction Risk Management Symposium attended by nearly 100 professionals in construction, real estate and development, insurance, consulting, and recruiting. Below are three key takeaways from the event.

1. Defining, promoting and adhering to a strict safety and efficiency standard on a construction project helps establish a culture that permeates throughout the site and transforms skeptics into adopters and even influencers. Ben Evans of the University of Pennsylvania and Jeffrey Spatz of The Graham Company discussed the safety and efficiency culture on PennMedicine's \$1.5 billion hospital tower project at the University of Pennsylvania in Philadelphia. Ben kicked off their keynote conversation by dressing for the part with a hard hat, safety glasses, safety vest and gloves—emphasizing that putting on the gear when first stepping onto the job site is critical. They explained how the combination of their integrated project delivery (IPD) model that identifies all responsible parties on the project, comprehensive safety guidelines, training and daily vigilance collectively embodies the safety culture they're promoting. Ben said, "It's not just about compliance, it's about culture and human behavior—changing human behavior for the betterment of the project and the construction industry." He shared some specific "magic moments" throughout the project where members of the construction crew turned their practices and attitudes around to embrace the high safety standard and became beacons themselves. Ben explained how "safety creates efficiency, and safety and efficiency drive results."

2. Cyber threats in the construction industry are sophisticated, dangerous and growing, but implementing best practices can help mitigate risks. Garry Boehlert of Saul Ewing Arnstein & Lehr moderated the cybersecurity panel and began the discussion by identifying how the technology revolution that has helped streamline construction projects and establish a mobile workforce has also created cyber risks. He outlined specific cyber threats impacting the industry, including third-party vendor liability, Internet of Things (IoT) devices that are vulnerable to hacking and tampering, phishing, and ransomware. The legal, technical and insurance representatives on the panel identified ways that companies can help mitigate cyber risks, including checklists to help ensure that third-party vendors have effective cybersecurity practices, incident response plans at the corporate level, tabletop exercises, employee training, and cyber insurance policies. Panelist April Doss of Saul Ewing Arnstein & Lehr said, "The best technology can't protect companies from human error, so training employees to be sensitive to phishing attacks, to encrypt messages and to be cautious with data over shared networks are very important." The panelists pinpointed how smaller subcontractors are more susceptible to cyber-attacks because they don't typically have sophisticated cybersecurity practices. "Hackers attack the weakest link," according to April. She highlighted a recent example of a subcontractor causing a hack by nation-state adversaries that shut down a power grid. She also described how a small group of young hackers with some RadioShack equipment hacked and obtained control of a massive tower crane in about 20 minutes. Panelist Souwei Ford of Willis Towers Watson advised that cyber insurance policies should not lead a company's business operations, but rather should come at the tail end. "You have to understand your company's riskiest areas first, identify different strategies to protect those areas, and then develop a plan to mitigate those risks, transferring some of that risk through cyber insurance at the end."

3. Culture, inclusivity and training are all key factors in fostering a positive work environment in the construction industry, while issues such as drug testing are evolving challenges that employers need to address. Moderator Don Rea of Saul Ewing Arnstein & Lehr and the labor and employment risk panelists discussed a range of topics from recruiting to drug testing. Evan Schlesinger of MSB Resources emphasized how important culture and experience are to employees: “Companies should market themselves by identifying their cultural advantages—whether that includes offering extended time off, paternity leave, complimentary gym memberships, or free lunches on Fridays—anything to help employees feel like they’re part of the organization and valued.” Jim McNelis of Joseph B. Fay Company highlighted the importance of making alliances with universities and technical schools and turning interns into employees. The panelists also identified ways that construction companies can be more inclusive to women. Jason Green of SkillsSmart noted that “[T] here needs to be purposeful recruiting and retention of women,” and Dena Calo of Saul Ewing Arnstein & Lehr added that “Mentorship and sponsorship are critical for women to be heard and get necessary training.” The panelists also addressed rapidly changing laws for the authorization of medical and recreational marijuana use and the ability for employers to drug test. Dena distinguished between the laws for federal and non-federal employers and explained how states laws are constantly changing and differ by state. “Some states have laws that say it is illegal or discriminatory to not hire or to fire someone with a medical marijuana card,” she explained. “A few months ago, the Massachusetts Supreme Court specifically said it was discriminatory to fire someone who tested positive for marijuana with a medical marijuana card. However, if someone is in a safety-sensitive position, then it is more likely that an employer can exclude him or her from the job.” Other states are following suit.



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