

About the Authors

Editors

Edward B. Gentilcore, Esquire

Mr. Gentilcore is the chair of the Construction Services Group at Sherrard, German & Kelly, P.C., in Pittsburgh, Pennsylvania. He practices in the areas of construction law and complex commercial litigation with a considerable emphasis on construction litigation, construction contracts, green/sustainable building, and mechanics' lien matters. He has represented, both nationally and internationally, a wide variety of owners, developers, architects, engineers, contractors, construction managers, specialty trade contractors, subcontractors, and material suppliers in construction-related matters, including those involving design-build, delays, extras, contract negotiation and compliance, construction safety, insurance, surety, payment, and mechanics' liens issues. Mr. Gentilcore also has considerable experience in the preparation of design and construction contracts, with a focus on dispute prevention considerations. He has represented clients on sports, educational, utility, hotel, industrial, institutional, and multi-use residential and commercial office facilities as well as highway, roadway, water, and underground piping infrastructure projects. Another unique facet of his practice involves the design and construction of buildings that have pursued green design, construction, and rating recognition. Mr. Gentilcore is a LEED® AP (Leadership in Energy and Environmental Design Accredited Professional) under the U.S. Green Building Council's Green Building Rating System and recently obtained his BD+C (Building Design and Construction) specialty credential. Also, he served as a co-chair of the ConsensusDOCS Committee charged with the development of the new ConsensusDOCS 310 Green Building Addendum now in use on a wide variety of green building projects. Mr. Gentilcore has been a longstanding member of the ABA Section of Litigation Construction Litigation Committee, where he served in a number of different capacities before becoming co-chair in 2011, a position he held until 2013. He is also a 20-plus-year member of the ABA Forum Committee on the Construction Industry, where he was recently appointed chair for the Forum's Division 10 (Legislation and Environment). He is admitted to the bar in the Commonwealth of Pennsylvania and is admitted to practice before many courts in the United States, including the Supreme Court of the United States, the United States Court of Appeals for the Third Circuit, and the United States District Courts for the Western and Eastern Districts of Pennsylvania. Mr. Gentilcore is honored to have been recognized by *The Best Lawyers in America* in construction law and litigation and selected for inclusion in *Pennsylvania Super Lawyers* in construction and surety law. He frequently publishes and speaks on matters involving green building, mechanics' liens, surety law, and construction litigation jury instructions. In 2014, Mr. Gentilcore was recognized by *The Best Lawyers in America* as Construction Lawyer of the Year for the Pittsburgh Region.

Robert A. Prentice, Esquire

Mr. Prentice is the former chair of the Construction Group at Duane Morris LLP. Mr. Prentice, who is resident in Duane Morris LLP's Philadelphia office, has substantial experience in construction litigation, having represented contractors, subcontractors, owners, architects, and sureties since 1977. In addition to litigation, arbitration, mediation, mini-trials, and other forms of alternative dispute resolution, he advises clients in connection with the preparation of contract documents and related matters. Mr. Prentice is admitted to practice before numerous local and federal courts, including the United States Supreme Court. In addition to representing general contractors and construction managers, Mr. Prentice also is currently special counsel for construction-related issues for several school districts, including the Kennett School District and Unionville-Chadds Ford School District. Mr. Prentice's responsibilities for school districts and public contractors have encompassed all aspects of the construction process, including drafting architect agreements, drafting of construction contracts and bid packages, monitoring construction contract administration during construction, negotiating change orders, negotiating takeover agreements with sureties, interviewing and retaining completing contractors, and handling post-construction arbitration and/or litigation. Mr. Prentice has given seminars under the auspices of such organizations as the National Business Institute, Construction Education Management Corporation, Practicing Law Institute, the Pennsylvania Institute of Certified Public Accountants, and Pennsylvania Bar Institute, and has written numerous articles for their publications. Mr. Prentice is a past chair of the Real Property Section and of the Construction Law Committee of the Philadelphia Bar Association, and a former trustee for Trinity College of Vermont. Mr. Prentice is admitted to practice law in Pennsylvania, New York, Massachusetts, and Washington, D.C., and is a member of the American, Pennsylvania, Philadelphia, and District of Columbia Bar Associations. He is listed in *Who's Who in Practicing Attorneys* and was named a Pennsylvania Super Lawyer from 2004 to 2014. Mr. Prentice is a 1970 graduate of the University of Michigan Law School, a graduate of Harvard Law School (LL.M., constitutional law), and a graduate of Middlebury College.

Authors

Joseph A. Battipaglia, Esquire

Mr. Battipaglia concentrates his practice in the area of construction law and commercial litigation and is a member of Duane Morris's national Construction Law Practice Group. He is an active trial lawyer handling disputes involving design/construction contracts and commercial issues in federal court, state courts, and arbitration. Having extensive experience in all aspects of construction matters, he has represented owners, contractors, manufacturers, architects, engineers, and sureties, and has drafted and negotiated numerous design, construction, and procurement contracts for companies and public owners. He has coordinated construction and design licensing of several major design/construction companies throughout the United States, and has handled licensing compliance issues. He has also handled bid protests for public owners and contractors. Mr. Battipaglia has been involved in all aspects of construction for more than 30 years. Prior to practicing law, Mr. Battipaglia, also a registered professional engineer, was a consultant on design and construction contract disputes, and testified as an expert witness concerning contract disputes and damages throughout the United States. He has also performed construction management for an international engineering and construction company. Mr. Battipaglia is a member of the Forum on the Construction Industry of the American Bar Association and a member of the Pennsylvania, Philadelphia, and New Jersey Bar Associations, and is a 1990 honors graduate of Rutgers School of Law—Camden and a 1981 honors graduate of Drexel University (B.S., civil engineering).

James M. Doerfler, Esquire

Mr. Doerfler is counsel in the Pittsburgh office of Reed Smith LLP, where he is a member of the firm's Construction and Engineering Team and the Energy and Natural Resources Group. He is actively involved in the Construction Law Section of the Allegheny County Bar Association. His practice covers both litigation and transactional matters, and includes a broad base of facilities-related work for commercial and institutional buildings, steel mills, coal- and gas-fired power plants, manufacturing facilities, pharmaceutical plants, wastewater treatment plants, waste-to-energy facilities, solar-powered installations, and oil and gas pipeline projects. In addition to practicing law, Mr. Doerfler previously worked in the construction industry for a Pittsburgh-based commercial construction firm, serving as an estimator, project manager, and as a corporate officer of the firm. He has lectured at continuing legal education seminars in Pennsylvania on construction payment and lien law issues. He has also authored articles appearing in *Mealey's* on construction-related insurance coverage issues. Mr. Doerfler received his J.D., with honors, from the Ohio State University, Moritz College of Law, and a B.A. in economics, magna cum laude, from the University of Notre Dame.

Marc J. Felezzola, Esquire

Mr. Felezzola is an associate in the Litigation and Construction Services Groups of Babst Calland. His practice areas include construction, environmental, and labor litigation. Mr. Felezzola graduated from Columbia University with a B.A. in history. He received his J.D. from the University of Pittsburgh School of Law, where he graduated cum laude, served as the executive editor on the editorial board of the *University of Pittsburgh Law Review*, and was elected for membership in the Order of the Coif. While in law school, Mr. Felezzola completed an externship with the Honorable Joseph K. Williams of the Court of Common Pleas of Allegheny County and served as a law clerk for an asbestos litigation firm in Pittsburgh and in the Pittsburgh legal aid office. Mr. Felezzola is licensed to practice in Pennsylvania, West Virginia, and New Jersey, and is admitted in the United States District Courts for the Western District of Pennsylvania and the Southern District of West Virginia. He is a member of the Allegheny County and Pennsylvania Bar Associations.

Kurt F. Fernsler, Esquire

Mr. Fernsler is a shareholder in the Construction Services and Litigation Services groups of Babst Calland, and practices in the firm's Pittsburgh and State College offices. He has significant experience in negotiating and litigating construction and other commercial matters. Specifically, his construction experience includes representing contractors, subcontractors, owners, surety companies, and utilities in drafting and negotiating construction contracts and in all manner of performance and payment disputes, including payment and performance bond claims and defenses, mechanics' liens, indemnity, insurance and claims surrounding delay, acceleration, and similar construction-related issues. Mr. Fernsler's experience includes litigating and arbitrating these types of issues before various state and federal courts and the American Arbitration Association. Mr. Fernsler is admitted to practice before the Supreme Court of Pennsylvania, the Supreme Court of Appeals of West Virginia, the United States District Court for the Western District of Pennsylvania, and the United States District Court for the Southern District of West Virginia. He is a member of the Allegheny County and Pennsylvania Bar Associations. He has been recognized as one of Pennsylvania's top lawyers since 2010, according to an annual survey published in *Philadelphia* magazine. He is a 1992 graduate of Pennsylvania State University, with a B.S. in finance, and earned his J.D. from the Duquesne University School of Law in 1996.

Joyce K. Hackenbrach, Esquire

Ms. Hackenbrach is a partner in the law firm of Pepper Hamilton LLP. Since 1985, Ms. Hackenbrach has concentrated her practice on the full range of legal matters arising from design and construction of public and private facilities, both foreign and domestic. She has extensive experience in helping clients decide what project delivery methods to use for their projects, negotiating and drafting all of the necessary design, construction, construction management, design-build, and EPC or EPCM contracts, providing “real time” claims avoidance and mitigation advice during projects, and in representing owners, developers, design-builders, constructors, and engineers in major litigation, arbitration, mediation, and other design- and construction-related dispute resolution, both domestic and international. The types of projects on which Ms. Hackenbrach has worked span the full range of industrial, institutional, and commercial projects, including major biopharmaceutical and pharmaceutical facilities, hospital facilities, oil and gas processing plants, food processing plants, other chemical and industrial process plants, commercial office buildings, embassy facilities, and hotel and hospitality facilities. Ms. Hackenbrach has spoken and written extensively on design- and construction-related subjects, including green, sustainable, and high-performance projects. She is a magna cum laude graduate of the Wharton School and a graduate of the University of Pennsylvania Law School.

Patrick J. Kearney, Esquire

Mr. Kearney is a partner at Duane Morris LLP, where he has a diverse national construction law and real estate litigation practice, handling a broad range of matters in federal and state courts across the United States and before arbitrators for international and domestic clients. Mr. Kearney has counseled clients, including owners/developers, contractors, banks, design professionals, and public entities, on all aspects of construction law. During his career, Mr. Kearney has represented clients on construction projects and/or litigated construction cases involving differing site conditions, termination, equitable adjustments, surety law, mechanics’ liens, claims for delay and inefficiency, design errors and omissions, construction defects, and all types of other contract disputes. Mr. Kearney has also been involved in some of the largest and most visible construction projects of the last decade in the Philadelphia/New Jersey area, including casinos, skyscrapers, and sports stadiums. Mr. Kearney has also served as special construction counsel for certain bridge and transportation projects, and has assisted school districts in completing major capital improvement projects. Mr. Kearney routinely counsels his clients on how to respond to day-to-day scope and payment disputes, notice provisions, minority participation requirements, licensing questions, bonding problems, and other business issues. Mr. Kearney is a 2003 graduate of Rutgers School of Law—Camden and a cum laude graduate of Temple University.

Rochelle R. Koerbel, Esquire

As a partner in the Construction and Surety Industry and Real Estate Practice groups of Blumling & Gusky, LLP, Pittsburgh, Ms. Koerbel concentrates her practice in construction, land use and zoning, and commercial litigation. She also litigates personal injury actions on behalf of construction companies and provides counsel on employment and labor issues in the construction industry. She has a broad range of experience both prosecuting and defending construction claims in federal and state court, as well as alternative dispute forums such as the American Arbitration Association. Ms. Koerbel represents general contractors, subcontractors, and suppliers in her construction practice. Prior to joining Blumling & Gusky, Ms. Koerbel was an associate at a mid-size law firm, where she practiced in the areas of commercial and construction litigation, general defense litigation, and occupational illness litigation. Ms. Koerbel is a member of the Allegheny County Bar Association, its Construction and Surety Section and the Women in the Law Committee, the Pennsylvania Bar Association, and the West Virginia Bar Association.

She is also a member of the National Association of Women in Construction. She received her B.S., with distinction and honors, in 1993 from the Pennsylvania State University, where she was a member of the University Scholars Program. She received her J.D. from the University of Pittsburgh School of Law, cum laude, in 1996, where she was a member and associate editor of the University's *Journal of Law and Commerce*. She is admitted to practice law at both the federal and state levels in Pennsylvania and West Virginia. Ms. Koerbel was named as a Pennsylvania Super Lawyer in 2010, 2011, and 2012.

Joshua R. Lorenz, Esquire

Mr. Lorenz is a partner with Meyer, Unkovic & Scott LLP, Pittsburgh, whose practice focuses primarily on business and commercial litigation, real estate litigation, and construction law and litigation. Mr. Lorenz has a range of civil litigation experience and has appeared before various state, federal, and bankruptcy courts, as well as numerous arbitration panels. He regularly represents corporate, municipal, and individual clients in both the prosecution and defense of their legal matters. Mr. Lorenz is also active in advising and representing the firm's construction clients throughout the duration of their projects, ranging from the negotiation and drafting of their agreements to claims and dispute resolution. He has special expertise with respect to Pennsylvania's Mechanics' Lien Law, advising the firm's clients regarding recent amendments to mechanics' lien practice, and drafting changes to their contracts and related documentation as appropriate. Mr. Lorenz was selected as one of Pennsylvania's Lawyers on the Fast Track for 2007, an honor recognizing lawyers under the age of 40 who have contributed significantly to the practice of law. He has also been recognized on multiple occasions as a Super Lawyers Rising Star by the publisher of *Law & Politics* magazine and *Philadelphia* magazine. He is admitted to practice before Pennsylvania's state courts, the United States District Court for the Western District of Pennsylvania, and the United States Court of Appeals for the Third Circuit, and is a member of the Allegheny County and Pennsylvania Bar Associations. Mr. Lorenz earned his Juris Doctorate from the Dickinson School of Law of the Pennsylvania State University, where he was selected for membership in the Order of Barristers and was inducted as a member of the Woolsack Honor Society. Mr. Lorenz is a Phi Beta Kappa, magna cum laude graduate of Virginia Tech, with a bachelor's degree in political science. While at Virginia Tech, he was awarded the Glen Moser Award by Pi Lambda Phi for his leadership and service.

A. Peter Prinsen, Esquire

As vice president, general counsel, and a principal at The Graham Company, Mr. Prinsen works with producers, account managers and the Claims Services Department to maximize insurance coverage, aggressively handle claims, ensure accurate reserves, and advise Graham Company insureds on coverage and claims matters. He is also a member of the company's board of directors. Mr. Prinsen is a graduate of Villanova Law School and Penn State University, where he graduated with high honors. He practiced insurance defense and insurance coverage litigation with Duane Morris before joining The Graham Company in 1989. He has received numerous awards in trial advocacy, including the International Academy of Trial Lawyers Award and the Lewis F. Powell Award for Excellence in Trial Advocacy. In 2013, Mr. Prinsen was the recipient of *Philadelphia Business Journal's* 2013 Corporate Counsel Award in the Private Company category. Mr. Prinsen is a frequent speaker on insurance-related topics. He is also active in various insurance-related and legal organizations, including the Pennsylvania and Philadelphia Bar Associations, and is on the board of directors of the Delaware Valley Association of Corporate Counsel and SquashSmarts, which combines the sport of squash with academic tutoring and mentoring of underserved youth in Philadelphia. Mr. Prinsen is a licensed Insurance Agent, and is also a Chartered Property and Casualty Underwriter (CPCU), Registered Professional

Liability Underwriter (RPLU), and has the Associate in Surplus Lines Insurance (ASLI) and Associate in Claims (AIC) designations awarded by the Insurance Institute of America.

Jason C. Spang, Esquire

Jason C. Spang is an associate in the Construction Practice Group of Pepper Hamilton LLP, resident in the Philadelphia office. Mr. Spang focuses his practice on construction-related matters and has been involved with a wide variety of projects and disputes, including defending an EPC contractor in arbitration proceedings related to the construction of an electric generating station, defending an owner in arbitration related to the construction of a process plant, defending a general contractor in litigation with a subcontractor on a public works project, negotiating contracts for urban development projects, and counseling an engineering firm on delay and damage issues related to an urban infrastructure project. Mr. Spang graduated from Rutgers University School of Law—Camden in 2007, with high honors, and received his B.S. in mechanical engineering from Drexel University in 2000. Prior to receiving his law degree, Mr. Spang held various roles in the construction industry, working for a general contractor, a construction manager and for a consulting firm. He holds a professional engineering license in the State of New Jersey and is a U.S. Green Building Council LEED® Accredited Professional. Mr. Spang is admitted to practice in Pennsylvania and New Jersey, as well as before the United States District Court for the Eastern District of Pennsylvania.

Michael P. Subak, Esquire

Michael P. Subak is a partner in the Construction Practice Group of Pepper Hamilton LLP, and a member of the firm's Executive Committee. Focusing his practice on construction litigation, Mr. Subak has represented owners, EPC contractors, construction managers, general contractors, and subcontractors in a variety of disputes on projects ranging in size from \$1 million to more than \$10 billion. He has tried to “verdict or award” numerous disputes involving terminations for default, unforeseen site conditions, labor inefficiency, design and construction defects, and schedule delays. Mr. Subak is active in the Forum Committee of the American Bar Association, and he previously chaired the Philadelphia Bar Association's Subcommittee on Construction Law. He has been selected for inclusion in *The Best Lawyers in America* in the area of construction law. A frequent publisher of articles relating to construction law, Mr. Subak is co-author of *Construction Contracting in Pennsylvania* and has contributed chapters to *ABA: The Design/Build Process*, *Fifty State Public Construction Contracting*, and *State Public Construction Law Handbook*. Mr. Subak has spoken at the Construction SuperConference in both London and San Francisco, served as an instructor for the Construction Management Certificate Program at Temple University's School of Business and Management, and lectured at Lorman's Construction Law Course. Mr. Subak earned his law degree in 1994 from the University of Pittsburgh Law School and his B.A., cum laude, from Middlebury College in 1989. He is licensed to practice in Pennsylvania.

William J. Taylor, Esquire

Mr. Taylor is a partner with White and Williams LLP, Philadelphia. Mr. Taylor has over 25 years of experience with a practice that focuses on surety and fidelity law, construction claims litigation, construction contracting and project administration, and insurance and commercial litigation. As co-chair of the firm's Construction and Surety Group, Mr. Taylor leads a talented group of lawyers that represents owners, general contractors, subcontractors, building component manufacturers, lenders, borrowers, architectural and engineering firms, and insurance and surety companies in a wide array of construction-related matters. He is also a member of the firm's Bad Faith and Extra-Contractual Liability Groups. Mr. Taylor has counseled numer-

ous surety clients in regard to all aspects of suretyship, including drafting and enforcing indemnity agreements, managing defaults and takeover situations, defending payment and performance bond claims, and enforcing subrogation rights. His broad construction experience includes litigating delay and disruption, inefficiency, defective design, extra work, and loss of business claims in federal and state courts, and in arbitration on behalf of owners, contractors, subcontractors, sureties, and design professionals. Mr. Taylor has also regularly drafted construction agreements and advised construction industry clients on contract management and administration issues. He has also worked extensively with insurance company clients regarding coverage, bad faith, and defense issues. Mr. Taylor helped found and currently serves as president of the Philadelphia Surety Claims Association. He received his J.D., cum laude, from Georgetown University Law Center in 1982, and his A.B. from Georgetown University in 1979.

John M. Tedder, Esquire

Mr. Tedder is a shareholder and director of Sherrard, German & Kelly, P.C., in Pittsburgh, and a member of the SGK's Litigation and Construction Services Groups. He has been in private practice for over 18 years, and specializes in the areas of construction and commercial litigation as well as project development and construction transactional matters. Mr. Tedder is an active member of the American Bar Association's Forum on the Construction Industry, the Pennsylvania Bar Association, and the Allegheny County Bar Association's Construction Law Section. He is admitted to practice before the state courts of Pennsylvania, the United States Court of Appeals for the Third Circuit, the United States Court of Federal Claims, the United States District Court for the Western District of Pennsylvania, and the United States District Court for the Southern District of Indiana. Mr. Tedder received his J.D. from Duquesne University School of Law in 1996, and his B.A. from Clemson University in 1993.

Douglas R. Widin, Esquire

Douglas R. Widin is of counsel to Reed Smith LLP in its Philadelphia office. He received his undergraduate degree from Franklin and Marshall College and his J.D., cum laude, from the Dickinson School of Law at the Pennsylvania State University. Following law school, he served as law clerk to the Honorable John B. Hannum of the United States District Court for the Eastern District of Pennsylvania. Mr. Widin has almost 30 years of experience in insurance coverage litigation and counseling and significant experience with contract surety bonds and OCIP programs, including assessment of liability and indemnity proceedings. He has handled matters for clients involving all aspects of property insurance, including cause and origin, valuation, business interruption, contingent business interruption and codependency, valuable papers and records, and sue and labor claims, under the full spectrum of standardized and manuscript policies. He also has extensive experience in political risk claims. He also represents clients with regard to liability policies, including commercial general liability policies, professional error and omissions policies, directors and officers insurance, and numerous specialty liability insurance coverages. These matters have involved such diverse events as explosions, fires, defective products, defective construction, unintended releases of chemicals, discrimination and harassment, defamation, and many other sources of potential liability. In addition to litigation matters, he also regularly consults with policyholders and brokers regarding reviews of existing and proposed insurance programs to advise them as to the scope of coverage afforded and to negotiate with insurers regarding the terms and conditions of proposed coverage. He is often contacted by clients with respect to the insurance implications of corporate transactions, such as acquisitions, mergers, and divestitures.