



# BIOGRAPHY



## MICHAEL S. ZICHERMAN

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## PARTNER

Michael S. Zicherman is an accomplished construction lawyer and complex commercial litigator with 25 years of experience. He is a creative thinker and problem solver, possessing outstanding oral and written advocacy skills, and is particularly adept at distilling complex facts and issues. He has a history of achieving economical and successful results for clients in litigation, arbitration, and mediation, and is a member of the American Arbitration Association's national roster of construction arbitrators.

Michael is a partner in the New Jersey office. His practice focuses on the litigation, arbitration, and appeals of complex commercial and construction disputes. The scope of his practice is both domestic and international, and he has litigated disputes to the highest courts in New York and New Jersey. Michael has numerous published and unpublished written decisions to his credit, in both state and federal courts, including the landmark decision in *Panasia Estates, Inc. v. Hudson Ins. Co.*, in which he successfully argued before the New York Court of Appeals that insureds may sue their insurance carriers for consequential damages above the policy limits, arising out of the carriers' breach of the insurance policy.

As part of Peckar & Abramson's Construction Law Practice, Michael regularly represents owners/developers, engineers, general contractors, construction managers and subcontractors, on various public and private construction projects, ranging from heavy and highway, bridges, tunnels, airports, and pipelines, to public-private partnerships, retail, office and mixed-use buildings, and school construction projects. He has both prosecuted and defended a broad range of construction claims and disputes, where the amounts in dispute have exceeded \$100 million, including scheduling/delay/impact damages, payment and performance bond claims, construction/mechanics' liens, and design-defect and change order claims. Michael also regularly advises clients in connection with pre-bid contract reviews, risk analyses, and general contractual rights and obligations, as well as post-award contract negotiations and drafting. In 2021, he completed FIDIC Certified Course Module 2: Claims and Disputes Resolution.

Michael's commercial litigation practice involves representing clients in various business disputes, including insurance coverage, real estate transactions, consumer fraud, professional negligence, breach of contract claims and other general business torts and transactions. He also has significant experience with bankruptcy, and has frequently represented clients in bankruptcy court, pursuing claims against the debtor and seeking other relief from the court.

Michael is a frequent author on domestic and international construction law topics. In addition to his many publications, he is the co-editor of *Getting the Deal Through's Construction*, an international survey of construction and construction law, and co-authored the US chapter since 2008. From 2006 through 2016, he also served as a contributing editor of *The Construction Lawyer*, the official quarterly publication of the American Bar Association's Forum on the Construction Industry, and for 6 years co-authored the publication's

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“Hard Hat Case Notes” section. Recognizing his accomplishments, Michael has received numerous top accolades in the fields of construction law, construction litigation, commercial litigation, and appellate practice from various professional rating services, such as *New York-Metro Super Lawyers*, *New Jersey Super Lawyers*, *Best Lawyers*, *Bergen’s Top Lawyers*, and holds the highest rating - AV Preeminent - from *Martindale Hubbell*. He also is the Global Law Experts recommended attorney in the field of construction law for New York and New Jersey.

## HIGHLIGHTS

### **ADMISSIONS:**

- State of New Jersey
- State of New York
- State of Pennsylvania
- United States Supreme Court
- United States Court of Appeals for the Second and Third Circuit
- United States District Court for the Southern District of New York
- United States District Court for the Eastern District of New York
- United States District Court for the Northern District of New York
- United States District Court for the District of New Jersey
- United States District Court for the Eastern District of Pennsylvania
- United States District Court for the Western District of Wisconsin

### **EDUCATION AND COURSES:**

- University of Rochester, B.A.
- Syracuse University College of Law, J.D.
- FIDIC Module 2: Claims and Disputes Resolution

### **PRACTICE AREAS:**

- Construction and Infrastructure
- Business Litigation
- Construction Dispute Resolution
- International Construction and Infrastructure
- Public-Private Partnerships

### **MEMBERSHIPS:**

- Construction Lawyers Society of America (Fellow)
- American Bar Association (Litigation Section and Forum on the Construction Industry)
- Construction Management Association of America (NY / NJ Chapter)
- New York State Bar Association (Construction and Surety Law Division of the Torts, Insurance & Compensation Law Section)
- New Jersey Bar Association (Construction and Public Contract Law Section)
- Pennsylvania Bar Association
- International Bar Association (Litigation Committee and International Construction Projects Committee)
- CPR International Institute for Conflict Prevention & Resolution (Arbitration Committee and Construction Advisory Committee)
- Order of the Barristers

## **AWARDS AND RECOGNITIONS:**

- *Chambers USA*, Construction Law, New Jersey, 2021-2022
- *Martindale Hubbell* - AV Preeminent Rated
- *ALM & Martindale-Hubbell* "New York Top-Rated Lawyers", 2020
- *The Legal 500: United States*, "Recommended Lawyer," 2022
- *New Jersey Super Lawyers*, 2014, 2016-2022
- *New York-Metro Super Lawyers*, 2015-2022
- *Best Lawyers*, 2013-2023
- *Who's Who Legal*, Construction, 2017, 2018, 2021-2022
- *Who's Who Legal: Thought Leaders*, Construction 2021
- *Who's Who Legal: Thought Leaders*, USA 2023
- *Bergen Magazine*, Top Lawyer - Construction & Commercial Litigation, 2020-2022
- *Bergen's Top Lawyers*, Commercial Litigation, 2013 - 2016, 2017, Appellate Practice, 2014
- *Expert Guides*, Construction, 2017
- *New Jersey Law Journal*, Professional Excellence Award, 2020

## **PUBLICATIONS AND PRESENTATIONS:**

- United States Chapter, *Getting the Deal Through – Construction* (2008-2023 editions), Law Business Research Ltd. (co-editor; co-author).
- "The Enforceability of "Pay-if-Paid" Provisions Affirmed in New Jersey," *P&A Client Alert*, December 2022 (co-author).
- United States Chapter, *Mondaq's Construction Comparative Guide*, January 2022.
- "The Intersection of Construction Law and Bankruptcy Law – Resolving the Dilemma," NJICLE, February 2021 (panelist).
- "Public-Private Partnership Educational Seminar," ACCNJ and AIAI, October 2018 (panelist).
- "The Intersection of Construction Law & Bankruptcy Law: Resolving the Dilemma," NJICLE, February 2017 (panelist).
- "Physical Security in the Design and Construction of High-Risk Construction Projects," Construction Superconference, December 2016 (panelist).
- United States Chapter, *Construction Law & Practice* (International Series), Sweet & Maxwell (2nd Edition, 2016) (co-author).
- "Hard Hat Case Notes," *The Construction Lawyer*, American Bar Association, Summer 2010-Summer 2016 (co-author).
- "Pay-If-Paid vs. Pay-When-Paid in Construction Contracts," *Practical Law Company*, 2015.
- "Pay-If-Paid Clauses in Construction Subcontracts," *Practical Law Company*, 2015.
- "Construction Law 2014: Handling the Construction Defect Case," NJICLE, June 2014 (panelist)
- "Statute of Repose Limits an Indemnity Claim," *AGC Law in Brief*, Vol. 1, No. 1, December 3, 2014 (co-author).
- "Pay-If-Paid Provisions In Construction Contracts Are Enforceable in New York Where The Project Is Located Outside the State," *NYCLA Construction Law Journal*, Vol. I, Issue II, Summer 2011.
- "CM Liability for Jobsite Safety: The Fine Line Between Managing the Work and Controlling It," *CM Advisor*, September/October 2010.
- "Constitutional Due Process And Mechanics' Liens: Do Public Mechanic's Lien Laws Stand Up To The Challenge?," *Journal of the American College of Construction Lawyers*, Volume 2, Number 1, Winter 2008.
- "Effective Risk Management: A Roadmap to Success," CMAA National Conference & Trade Show, 2007 (moderator / panelist)
- "Mechanics' Liens – An International Perspective," *Lorman Construction Newsletter*, August 2005 (co-author).