

ALBERT BATES JR.

Partner

OVERVIEW

"An outstanding attorney who is recognized for his expertise in national construction matters." – Chambers USA 2016



Albert Bates, Jr. is a partner in the Construction Practice Group of Pepper Hamilton LLP, resident in the Pittsburgh office.

Mr. Bates focuses his practice on the resolution of domestic U.S. and international construction claims. He also advises clients on project planning and execution strategies, project management and project controls strategies, and change management on large construction projects. Mr. Bates has significant experience with megaprojects, EPC projects, and alternative project delivery systems, particularly in power generation, infrastructure and heavy industrial process facilities. He has acted as counsel on coal, gas-fired, solar, nuclear, biomass and hydroelectric power generation projects, tunneling projects, chemical plants, pharmaceutical plants, steel mills, coke and coal by-product plants, mass transit, bridge and highway projects, airports, mixed-use facilities, and sports and entertainment venues.

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Mr. Bates has a "Band 1" rating in Construction in *Chambers USA* and is a Fellow of the American College of Construction Lawyers. He is also recognized as a "Leading Lawyer" in Construction by *The Legal 500* and is listed in *The Best Lawyers in America* and the *International Who's Who of Construction Lawyers*.

Mr. Bates regularly serves as an arbitrator and mediator on domestic and international construction and commercial disputes, and has served as a neutral on more than 150 occasions, including multiple matters in which the amount in controversy exceeded \$100 million. Mr. Bates serves as a member of the executive committee of the board of directors of the American Arbitration Association/International Centre for Dispute Resolution, is a Fellow in the College of Commercial Arbitrators, and is a Certified Mediator by the International Mediation Institute.

Prior to joining Pepper, Mr. Bates was chairman of the Construction Group at Duane Morris LLP.

EXPERIENCE

Examples of Mr. Bates' experience include:

Construction Projects

- Power Project: Nuclear - Counsel to Westinghouse Electric Company LLC in connection with disputes between WEC and its consortium partner arising from the engineering, design and construction of four WEC AP 1000 nuclear power plants in the southeastern United States, two at Plant Vogtle in Waynesboro, Georgia and two at the V.C. Summer plant in Jenkinsville, South Carolina.
- Power Project: Hydroelectric/Tunneling - Counsel to Strabag SpA (Strabag), the constructor of a 531 megawatt (MW) run of the river hydroelectric project in the Andes Mountains southeast of Santiago, Chile. Strabag's work includes approximately 45 kilometers of tunneling in the Chilean Andes, and certain civil and infrastructure works.
- Power Project: Solar - Counsel to SunPower Corporation in an international arbitration arising from the construction of a 68 megawatt merchant solar power plant in the Atacama Desert in north central Chile.
- Infrastructure Project: Public-Private Partnership - Served as Pennsylvania construction counsel to the Pennsylvania Rapid Bridge Replacement Public-Private Partnership, which entails nearly \$1 billion in financing, the rebuilding of almost 600 structurally deficient, non-tolled bridges throughout the Commonwealth, and the operation and maintenance of those bridges for 25 years over the course of repayment.
- International Oil Pipeline Project – Counsel to Bechtel, the Program Manager (engineering management, procurement and construction management) for TransCanada, on matters related to the Keystone Pipeline XL Project.
- Power Project: Supercritical Coal - Arbitration and litigation counsel to Aker Kvaerner Songer, Inc. in a series of cases arising from engineering, procurement and construction of Council Bluffs Energy Center Unit 4, a 790-megawatt supercritical coal-fired electric generating facility in Council Bluffs, Iowa.
- Power Generation: Hydroelectric - Capital Projects - Construction counsel to Oglethorpe Power in connection with certain capital projects at its Rocky Mountain hydroelectric plant.
- Power Generation: Biomass and Combined Cycle – Capital Projects - Construction counsel to Oglethorpe Power in connection with a multibillion-dollar procurement and construction program for a series of biomass and gas-fired power generating facilities.
- Power Project: Supercritical Coal - Prudency Counsel - Prudency counsel to Kansas City Power & Light with respect to a series of rate cases in Kansas and Missouri arising from the construction of Iatan 2, an 850-megawatt supercritical coal-fire power-generating facility in Iatan, Missouri.
- Power Generation: Solar - Capital Projects - Construction counsel to SunPower in connection with the engineering, procurement and construction of several domestic and international solar power generating facilities.

- Power Project: Solar - Arbitration counsel to EPC contractor on disputes arising from construction of a large solar power plant in Chile.
- Power Project: Coal - AQCS Upgrades – Counsel to Marsulex Environmental Technologies Inc., the EPC contractor, in connection with disputes arising on Flue Gas Desulfurization system upgrades at three coal-fired power plants in Utah.
- Power Project: Coal - AQCS Upgrades – U.S. construction counsel to Marsulex Environmental Technologies Inc., the EPC contractor, in connection with tenders on Flue Gas Desulfurization system upgrades in Chile.
- Power Project: Combined Cycle - Litigation counsel to Aker Kvaerner Songer, Inc. in two cases arising from the construction of the 580-megawatt combined-cycle Ontelaunee Energy Center near Reading, Pennsylvania.
- Power Project: Nuclear Remediation - Represented Southern California Edison in defense of claims by its demolition contractor on certain demolition and disposal work at a decommissioned nuclear power facility in California.
- Steel Mill: Greenfield Construction - Litigation counsel to Mannesmann Demag, the EPC contractor for the construction of a greenfield steel plant in Davenport, Iowa, against nearly \$300 million in claims asserted by IPSCO Steel, Inc.
- Air Separation Plant - Arbitration counsel to Kvaerner Industrial Constructors, Inc. in arbitration proceedings arising from the construction of an air separation plant in Freeport, Texas.
- Asset Mill: Bankruptcy Matter - Litigation counsel to SMS Demag, Inc. and SMS Meer GMBH in two related cases arising from the supply and installation of an asset and stretch-reducing mill in Rosenberg, Texas.
- Sinter Plant: AQCS Project - Litigation counsel to United States Steel Corp. in a breach of contract, breach of warranty and engineering negligence action involving deficiencies in the design and construction of a sinter plant emissions-control system at its Gary Works.
- Steel Mill Dismantling - Litigation counsel to dismantling contractor in a \$70 million loss of productivity and lost-profits claim arising from the owner's alleged actions and/or inactions on 10 large dismantling projects throughout the eastern United States.
- Pharmaceutical Plant: Greenfield Construction - Arbitration counsel to PPG Industries in a series of arbitration proceedings related to the engineering, procurement and construction of a pharmaceutical intermediate plant in LaPorte, Texas.
- Norwegian Naval Vessels - Construction counsel to the controls, packaging and ancillary functions subcontractor in a delay, disruption and inefficiency claim against Pratt Whitney for the propulsion

systems for Skjold Class Missile Fast Patrol Boats for the Norwegian Navy.

- Universal Studios Florida: CitiWalk Project - Litigation counsel to Baker Mellon Stuart Construction Inc., the general contractor, in a series of related cases in federal and state court in Florida arising from the construction of the Universal Studios Florida "CitiWalk" project.
- Pennsylvania Capital Addition - Litigation counsel to the Commonwealth of Pennsylvania in a series of disputes arising from the construction of a \$125 million addition to the State Capitol Building.
- Mixed-Use Complex: Greenfield Construction - Litigation counsel for the architectural joint venture and its consulting engineers in a multimillion-dollar loss of productivity and additional services claim against the owner/developer of a convention center hotel, office and retail complex in Pittsburgh, Pennsylvania.
- Highway and Bridge Project - Prosecution of claim for engineering additional fees for Michael Baker Jr., Inc. and defense of breach of contract and engineering negligence action by PennDOT relating to the Market Street Bridge in Williamsport, Pennsylvania.
- Subway Tunnel - Arbitration counsel to the Port Authority of Allegheny County in a multimillion dollar delay, impact and differing-site-condition claim by the general contractor and its tunneling subcontractor on the Mt. Lebanon Tunnel for the Light Rail Transit System.
- Public Transit Authority - Represented the Port Authority of Allegheny County in a number of construction and commercial arbitration matters administered by the American Arbitration Association. Examples include bid protests, delay, impact, differing site conditions, loss of productivity, extra work and inefficiency claims, error-and-omission claims, design-deficiency claims, and a variety of other types of disputes.

Commercial, Environmental, and Other Business Disputes

- Supply Contract - Representation of a large U.S. producer of alumina in a breach of contract action against a United Arab Emirates metals trading company and its Indian parent for refusing to accept delivery of contracted quantities of alumina.
- Asset Sale - Representation of Beazer East, Inc. in litigation involving the indemnification obligations of the parties for certain environmental remediation costs pursuant to a 1974 asset purchase agreement.
- Asset Sale - Representation of Beazer East, Inc. in an arbitration arising from the leveraged buyout of the Commercial Roofing Division of Koppers Company, Inc. This arbitration involved whether the purchaser had agreed to assume and indemnify the seller against certain commercial roofing warranty and product liability claims.
- Asset Sale - Representation of Beazer East, Inc. in litigation involving the indemnification obligations of the parties for certain environmental remediation costs pursuant to a 1978 asset purchase

agreement.

- Asset Sale - Representation of Baker Heavy & Highway and its parent, Michael Baker, Inc., in a breach of contract, breach of warranty and indemnification action arising from the sale of certain assets of Baker Heavy & Highway, Inc.
- Asset Sale - Defense of potential purchaser of a collection of businesses involved in the manufacture, sale, service and maintenance of sport fishing vessels in North Carolina.
- Environmental Cost Recovery - Representation of Beazer East, Inc., a former owner of a coke and coal chemical by-product recovery and refining plant, in a lengthy CERCLA cost-recovery action involving the Woodward Coke plant in Birmingham, Alabama.
- Environmental Cost Recovery - Representation of Beazer East, Inc., a former owner of a coke and chemical by-product recovery and refining plant, in a lengthy CERCLA and RCRA cost-recovery action involving the Toledo Coke plant in Toledo, Ohio.
- Environmental Cost Recovery - Representation of Beazer East, Inc., a former owner of a number coal chemical by-product recovery, refining and disposal facilities, in a number of mediations and other alternative dispute resolution procedures involving the allocation of responsibility among various potentially responsible parties for environmental remediation and removal costs.
- Insurance Coverage - Representation of North River Insurance Co. in a \$20 million insurance coverage matter involving whether current owner had any interest in, or is otherwise afforded coverage by, umbrella and excess-umbrella policy issues to former owner prior to the divestiture of certain business units when former owner remained in business and sought to apply coverage to other potential losses.
- Insurance Coverage - Representation of general contractor in an insurance coverage dispute arising under a "wrap-up" insurance policy as a result of the failure of structural members during the construction of the Greater Pittsburgh International Airport.
- Bankruptcy Matter - Representation of the Official Committee of Unsecured Creditors in connection with the investigation and assessment of the validity and avoidability of certain security interests of the secured lenders, and assessment of potential claims against the directors and officers of the debtor, in the chapter 11 reorganization of Birch Telecom, Inc.
- Bankruptcy Matter - Representation of PNC Bank, the secured lender, in adversary proceedings to recover for deterioration of cash collateral as a result of the alleged failure of Visteon Corp. and Delphi Automotive Systems, LLC, to adequately provide post-petition debtor-in-possession financing to a tier-2 automotive supplier.
- Trade Secrets - Representation of Danieli Corp. and Danieli & C. SpA in a case involving the procurement and construction of two cut-to-length sheet-steel lines for a Swedish steel manufacturer.

Plaintiff was a disappointed bidder that alleged, among other things, that the Danieli entities misappropriated their trade secrets during the bidding process.

INSIGHTS

EVENTS & WEBINARS

DECEMBER 5-7, 2016

PEPPER HAMILTON SPONSORING CONSTRUCTION SUPERCONFERENCE 2016

04/01/2016

2016 AAA CONSTRUCTION CONFERENCE, 'ARBITRAR UNA DISPUTA INTERNACIONAL DE CONSTRUCCIÓN'

DECEMBER 7-9, 2015

THE CONSTRUCTION SUPERCONFERENCE: BUILDING INSIGHT, STRENGTHENING CONNECTIONS

03/25/2015

2015 AAA® CONSTRUCTION CONFERENCE, 'RETOOLING ARBITRATION FOR MEGA PROJECT CONSTRUCTION CLAIMS'

12/02/2014

CONSTRUCTION SUPERCONFERENCE 2014

PUBLICATIONS

JANUARY 2014

CONSTRUCTION ADR, 'ADR PROVIDERS' CHAPTER

JANUARY 2013

PROACTIVE PROJECT MANAGEMENT: DOCUMENTATION AND CONTROL SUGGESTIONS FOR MEGAPROJECTS

AUGUST-OCTOBER 2012

CONTROLLING TIME AND COST IN ARBITRATION: ACTIVELY MANAGING THE PROCESS AND 'RIGHT-SIZING' DISCOVERY

SUMMER 2012

AUDIT PROVISIONS IN PRIVATE CONSTRUCTION CONTRACTS: WHICH COSTS ARE SUBJECT TO AUDIT, WHO BEARS THE EXPENSE OF THE AUDIT, AND WHO HAS THE BURDEN OF PROOF ON AUDIT CLAIMS?

2012

'STRATEGIC CONSIDERATIONS IN NORTH AMERICAN GIGAPROJECTS: COMMON PROJECT DELIVERY SYSTEMS AND THE RISKS AND REWARDS OF THE EPC CONSORTIUM,' CHAPTER

NEWS

08/15/2016

SIXTY-EIGHT PEPPER HAMILTON ATTORNEYS NAMED TO THE BEST LAWYERS IN AMERICA AND FOUR NAMED 'LAWYERS OF THE YEAR' FOR 2017

05/27/2016

PEPPER HAMILTON TOP RANKED IN 2016 EDITION OF CHAMBERS USA: AMERICA'S LEADING LAWYERS FOR BUSINESS

04/14/2016

ALBERT BATES, JR., FORMER CHAIR OF DUANE MORRIS CONSTRUCTION GROUP, JOINS PEPPER HAMILTON

ACTIVITIES/HONORS

ACTIVITIES

AMERICAN ARBITRATION ASSOCIATION/INTERNATIONAL CENTRE FOR DISPUTE RESOLUTION

- Member, Board of Directors and Executive Committee of the Board of Directors
- Chairman, Practice Committee of the AAA
- AAA MegaProject Panel Arbitrator
- AAA Master Mediator Panel
- Immediate Past Chair, National Construction Dispute Resolution Committee
- Panel of Master Construction Arbitrators
- ICDR International Arbitrator
- Construction and Commercial Arbitrator and Mediator
- AAA Arbitration Advocacy Trainer
- AAA Arbitration Ethics and Disclosure Trainer
- Program Faculty at various AAA and ICDR national and regional programs

CPR INSTITUTE FOR DISPUTE RESOLUTION

- International Arbitrator and Mediator
- Construction Arbitrator
- CPR Construction Advisory Committee
- Former member of CPR International Arbitration Committee
- Former member of CPR Arbitration Rules Revision Committee

INTERNATIONAL BAR ASSOCIATION

- Arbitration Committee
- International Construction Projects Committee

AMERICAN BAR ASSOCIATION

- ABA Construction Litigation Committee Delegate to National Construction Dispute Resolution Committee
- Forum on the Construction Industry
- Litigation Section, Committee on Construction Litigation

ALLEGHENY COUNTY BAR ASSOCIATION

- Chair, Construction Law Section, 2010-11
- Member, Construction Law and Civil Litigation Sections

ALLEGHENY COUNTY BAR FOUNDATION

Fellow

HONORS

AMERICAN COLLEGE OF CONSTRUCTION LAWYERS

Fellow, 2012 - present

BEST LAWYERS

Listed in *The Best Lawyers in America* for Arbitration, Construction Law, Litigation - Construction, and Mediation, 2007 - present; named Pittsburgh Construction "Lawyer of the Year" for 2010

CHAMBERS USA

Listed in *Chambers USA: America's Leading Lawyers for Business*, 2014-16

COLLEGE OF COMMERCIAL ARBITRATORS

Fellow, 2009 - present

INTERNATIONAL MEDIATION INSTITUTE

Certified Mediator

LEGAL 500

Named a "Leading Lawyer" for Construction in *The Legal 500 United States*, 2014-16

MARTINDALE-HUBBELL

AV® Preeminent™ peer review rated by *Martindale-Hubbell*

SUPER LAWYERS

Selected for inclusion on the [Pennsylvania Super Lawyers](#) lists, 2004 - present, Construction Law; named to "Top 50 - Pittsburgh" list, 2013

WHO'S WHO

Listed in *International Who's Who of Business Lawyers*, 2015, and *Who's Who of Construction Lawyers*, 2013-15

EDUCATION

- M.B.A., Finance, Vanderbilt University, Owen Graduate School of Management, 1987
- J.D., Vanderbilt University Law School, 1987, associate editor, *Vanderbilt Journal of Transnational Law*
- B.A., Economics and Political Science, *cum laude*, Washington & Jefferson College, 1983

BAR ADMISSIONS

- District of Columbia
- Pennsylvania

COURT ADMISSIONS

- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Fifth Circuit
- U.S. Court of Appeals, Sixth Circuit
- U.S. Court of Appeals, Eighth Circuit
- U.S. Court of Appeals, Eleventh Circuit
- U.S. Court of Appeals, District of Columbia
- U.S. Court of Federal Claims
- U.S. District Court, Western District of Pennsylvania
- United States Supreme Court