

Michael P. Subak

Partner
Philadelphia

michael.subak@troutman.com
D 215.981.4503



Mike is trusted by construction clients to win their toughest and most complex disputes, and for practical, strategic advice on project management and dispute avoidance.

Areas of Focus:

- Construction
- Construction Litigation
- Energy Construction
- International Construction Projects

Mike focuses his practice on construction litigation where he 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 substantial capital projects in the energy (coal, nuclear, solar, and gas-fired power plants) and infrastructure markets (airports, pipeline, and transmission lines), as well as commercial development projects.

Mike is active on the Forum Committee of the American Bar Association, and he previously chaired the Philadelphia Bar Association's Subcommittee on Construction Law.

He is a frequent author and speaker on construction litigation and related topics as well. Mike is the co-author of *Construction Contracting in Pennsylvania* (1998, 1999, 2000 and 2001) and has contributed chapters to *ABA: The Design Build Process* (Forum on the Construction Industry, 1997 and 2000 (supplement)); *Fifty State Public Construction Contracting* (Wiley Law, 1996 and 1999 (supplement)); and *State Public Construction Law Handbook* (CCH Incorporated, 2002, Pennsylvania chapter). Mike also co-authored a chapter update to *Pennsylvania Construction Law: Getting Started, Getting Covered, Getting Paid* (Pennsylvania Bar Institute, 2013, Second Edition).

Long active in firm management, Mike earned national recognition for developing an innovative and novel approach to hiring. During Mike's tenure as chair of the firm's Hiring Committee, the firm's summer associate program was ranked best in the nation in *American Lawyer* magazine's annual survey. Mike also was recognized for these accomplishments in the *ABA Journal*.

Representative Matters

- Lead counsel on behalf of an EPC contractor in federal court in the defense of a nine-figure claim arising out of the failed development of a multibillion-dollar power plant. In that matter, the owner was trying to avoid the enforcement of a limitation of liability clause. Mike's efforts contributed to the dismissal of all non-contract claims against our client, and following discovery, our client was granted summary judgment regarding the enforceability of the limitation of liability clause. When the plaintiffs were unable to reverse the granting of summary judgment through various procedural tactics, the case subsequently settled on terms extremely favorable to our client.
- Lead counsel on behalf of a major electrical contractor in federal court in the prosecution of a substantial claim against the utility owner. After six days of trial in federal court, Mike helped the client secure a substantial settlement in its favor.
- Lead counsel on behalf of an EPC contractor in a series of disputes arising out of the construction of a multibillion-dollar power plant. Mike's efforts helped the contractor to achieve a substantial settlement with the project owner, as well as the successful navigation of a variety of disputes involving subcontractors and vendors.
- Represented the private developer for the rebuilding of the World Trade Center in an arbitration that resulted in a \$100 million+ savings to our client. Subsequently represented the same developer in another multibillion-dollar arbitration that helped our client to successfully renegotiate the development agreement.
- Lead counsel on behalf of a general contractor in connection with a \$700 million+ elevated rail program with a public transit authority in a major city, whereby the general contractor was wrongfully terminated by the authority on a portion of the project. Following discovery and dispositive motions, the general contractor received an eight-figure settlement and the public transit authority dropped all claims against our client.
- Lead counsel on behalf of a trade contractor in connection with the construction of a \$500 million+ combined-cycle power plant in an operating refinery, whereby our client was wrongfully terminated by the EPC contractor. Following discovery and motion practice, including sanctions being assessed against opposing counsel, our client received an eight-figure settlement and the EPC contractor dropped all of its claims against our client.
- Served, as part of a seven-month secondment to one of the world's largest contractors, as project counsel on a \$10 billion airport in the Middle East, providing advice on a host of issues confronting a client on a mega-project.
- Represented a general contractor in a dispute with an owner in connection with the construction of a major retirement community. Following depositions of the owner's team, a settlement was reached whereby our client was paid 100 percent of its claim, plus interest and attorney's fees.

Media Commentary

- Quoted, "[The Dotted Line: Lessons From the Maryland Purple Line's Amended Contract](#)," *Construction Dive*, March 29, 2022.

Professional and Community Involvement

- Speaker, Construction SuperConference (London and San Francisco, CA)

- Lecturer, Lorman's Construction Law Course (Philadelphia and Harrisburg, Pa., 1997-2007)
- Served as an instructor for the Construction Management Certificate Program, Temple University's School of Business and Management (Philadelphia, PA, 2000-2006)

Rankings and Recognitions

- *Best Lawyers in America*®: Construction Law (2014-2023), Litigation - Construction (2023)
- *Chambers USA*: Construction, Pennsylvania (2020-2022)
- *The Legal 500*: Construction (2016-2020) and Real Estate: Construction (including construction litigation) (2021-2022)
- *Super Lawyers*®: Pennsylvania (2018-2023)

Professional Experience

- 1990-91 Legislative Assistant: U.S. Rep. Gus Yatron (Washington, DC)

Bar Admissions

- Pennsylvania

Court Admissions

- U.S. District Court, Eastern District of Pennsylvania

Education

- University of Pittsburgh School of Law, J.D., 1994
- Middlebury College, B.A., *cum laude*, 1989, Political Science