

# LAWYERS JOURNAL

## Construction law practice heats up

By Tracy Carbasho

Following a trend taking place throughout the state, Pittsburgh law firms are hiring more attorneys to handle a surge in construction activity that began about two years ago and is expected to continue well into the future.

Jason Mandel, director of legal recruitment at Alevistar Group in Conshohocken, keeps an eye on law firm trends in the Commonwealth.

“We started to come out of a real-estate downturn a couple of years ago and have seen a significant uptick in real estate work. Inevitably, this new development leads to construction matters,” he said. “This is also a general reaction to the economy being significantly stronger than it had been four or five years ago.”

### Factors behind the boom

Robert Blumling, managing partner at the Pittsburgh firm of Blumling & Gusky, has 35 years of experience practicing in construction, real estate development, land use and zoning, surety and environmental law. He said the current level of local construction rivals the industry bustle that occurred in the late 1990s and early 2000s – when there was an increase in building retail shopping centers, new stadiums, the convention center and ancillary businesses that were necessary to support these projects.

“Our established client base is now getting involved in new projects, and we’re getting more new clients,” he said. “A lot of the growth we’re seeing has been in the pipeline for several years.”

Blumling attributes today’s strong construction market to low interest rates and the trickle-down effect created by large projects, such as those in the Marcellus Shale industry and, specifically, the Shell ethane cracker plant in Beaver County. The big projects often draw attention to the need for additional development to accommodate hundreds of construction workers by providing hotel and apartment lodging, more restaurants and entertainment facilities.

As an example, Blumling points to the new construction and repurposing of buildings now taking place in Pittsburgh’s Golden Triangle area and the east part of Pittsburgh to create more apartments, dining selections and entertainment options.

### Hiring new talent

To keep up with its clients – who span the public works sector, residential development and commercial transactions – Blumling and Gusky hired three attorneys in 2016. The new attorneys assist the more-seasoned practitioners working in

the construction, real estate and related areas. The construction and surety law practice at Blumling focuses on contract negotiation and preparation; counseling and claim avoidance; dispute resolution, litigation and trials; as well as surety and contractor bond issues.

Weiss Burkardt Kramer, a local firm that focuses exclusively in the public sector for school districts, local governments and taxing authorities, hired Jessica Quinn-Horgan in March to handle construction litigation and related matters. She will serve in an “of counsel” capacity for the firm and maintain her private practice.

“Our client base consists of school districts in Western Pennsylvania, and many of those districts are engaged in renovation and construction projects, including capital maintenance,” said Ira Weiss, the firm’s founder. “We made the decision to hire Jessica in order to better serve our school district clients. Because of the legal requirements in school construction, it is not uncommon to have disputes relating to scheduling, delays and other issues.”

Prior to Quinn-Horgan being hired, several attorneys in the firm handled construction matters and certain projects were referred to special counsel. Her position was added to create additional capacity in the firm. She already has assisted several of the firm’s clients with the preparation and review of construction documents, the handling of contract disputes and the representation of school districts in construction-claim cases.

“The need for attorneys who specialize in construction law has always been present,” Quinn-Horgan said. “I think many firms, both large and small, want to be able to provide comprehensive representation for their clients rather than sending that work elsewhere.”

Quinn-Horgan agrees with Blumling that the brisk construction activity in the local area is partially the result of a renewed interest in Pittsburgh’s downtown, but she also points out a need to repair roadways and bridges.

### Negotiation, drafting of contracts

Chad Michaelson, chair of the ACBA Construction Law Section and a partner at Meyer Unkovic & Scott, said the most typical reason why clients might seek legal assistance is for the negotiation and drafting of construction contracts.

“The most common disputes arise from nonpayment, which leads to the filing of mechanics’ liens, the making of demands on sureties, and the filing of lawsuits,” he said. “When the economy is good, contractors are busy and owners generally have the funds to pay for the work. By some accounts, there are more disputes in a down market than when the economy is robust.”

Blumling said problems often can be prevented by ensuring that contracts for construction projects follow the mandatory legal requirements and the advisable legal requirements. That explains why many firms are busy negotiating, drafting and reviewing contracts.

“Solving a problem ranges from negotiating a solution to full-blown litigation,” Blumling said. “There is a broad spectrum of problems that could occur, but many involve unforeseeable delays; conflicts between the construction means, method and design; and encountering unforeseen conditions like asbestos in a building or subsurface water penetration issues.”

### **Looking ahead**

Michaelson said all of the firm’s construction clients are busy and have a backlog of projects, but he does not equate the increase in work with more disputes that require legal intervention. He did say, however, that the construction projects are providing plenty of work for the firm’s 15 construction law attorneys who are working on contracts.

“We have a fairly deep bench when it comes to handling construction and real estate matters, so we’ve not hired any new lawyers specifically to handle any anticipated increase in construction work,” he said. “We do expect the strong market to continue. Not only is there a good deal of private work here, but we also have a lot of infrastructure that needs to be maintained or reconstructed and the current administration has shown a desire to stimulate investment in that sector.” ■

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– *Jessica Quinn-Horgan*