

Construction Law Section

SPEAKER BIOGRAPHIES

by order of presentation

Henry W. Brown

*Nexsen Pruet
Columbia, SC*

Henry Brown practices primarily in the areas of construction litigation, commercial litigation, mediation and alternate dispute resolution. While at the University of South Carolina, Mr. Brown served as a member of the editorial board of the South Carolina Law Review.

Education:

University of South Carolina, J.D. 1976
Furham University, B.A. 1973

N. Ward Lambert

*Harper, Lambert, & Brown, P.A.
Greenville, SC*

Ward is a shareholder of Harper, Lambert & Brown, P.A. He concentrates his practice in construction law, including construction litigation, contracts and procurement. He has primarily represented General Contractors, Construction Managers, and Institutional Owners, such as school districts, hospitals, municipalities, and public works commissions. Ward regularly speaks on topics relating to construction litigation, public procurement law and dispute resolution.

Education:

University of South Carolina School of Law, J.D. 1990
Clemson University, B.S. 1985

Henry “Hal” W. Frampton, IV

*Gordon & Rees LLP
Charleston, SC*

Hal Frampton concentrates his practice in litigation matters, particularly in sensitive employment, employee benefits, professional negligence, and business disputes. He regularly assists businesses and professionals with claims brought by employees, former employees, and clients. He has defended employers in all manner of employment actions, including wage and hour claims, ERISA, ADA and FMLA claims, discrimination claims, and contractual disputes.

He has defended a wide variety of professionals in professional negligence claims, including many prominent lawyers, insurance agents, and other professionals. In addition, he has handled many high-stakes business disputes, including class actions with alleged damages of more than \$500 million dollars, and other high-dollar disputes involving mergers and acquisitions, intellectual property, and similar claims.

Mr. Frampton has wide-ranging experience with educational institutions, including colleges, universities, and independent schools. He has assisted schools with everything from routine hiring and firing, to disputes involving tenured faculty members, to disputes concerning student immigration status, to athletic conference membership, to extremely sensitive sexual abuse claims and other student safety issues.

Mr. Frampton has significant experience advising health care clients on the interactions between employment law and health care fraud and abuse law, and he regularly assists physicians, physician's practices, and health care institutions with structuring employment and independent contractor relationships in an advantageous and appropriate manner.

Mr. Frampton also assists clients with appeals and has successfully handled appeals before the U.S. Court of Appeals for the Fourth Circuit, U.S. Court of Appeals for the Ninth Circuit, South Carolina Supreme Court, and South Carolina Court of Appeals.

While in law school, he served as Managing Editor of the Yale Journal of International Law. He has served as a law clerk to the Honorable Thomas L. Ambro of the United States Court of Appeals for the Third Circuit, and to the Honorable Louis H. Pollak of the United States District Court for the Eastern District of Pennsylvania.

Everett "Rett" A. Kendall, II

*Sweeny, Wingate & Barrow, P.A.
Columbia, SC*

Rett leads Sweeny, Wingate & Barrow's Construction Defect team, representing general contractors, trades, material suppliers and manufacturers in large and small matters. In general, Rett concentrates on business litigation involving complex factual and legal issues. To provide excellent and efficient service to his clients, he has built a team of staff, consultants, and technology to pursue the client's objectives. Rett has tried numerous cases to jury verdict in the federal and state court systems and appeared before the South Carolina Supreme Court and Court of Appeals on multiple occasions.

Rett is an active member of local and national organizations, both legal and civic. He is a member of the executive committee of the Construction Section of USLAW, a select group of law firms throughout the United States, Canada and Mexico.

Rett is a native of Simpsonville, South Carolina. He is married to Nancy Meier Kendall, formerly of Birmingham, Alabama; they have three children. Rett and his wife are active

members of Shandon Baptist Church where Rett serves as a Deacon and teaches Sunday School. Among his hobbies are swimming, hiking and wood working.

A. Victor “Vic” Rawl, Jr.

*Gordon & Rees, LLP
Charleston, SC*

A. Victor Rawl, Jr. is the Managing Partner of the South Carolina and Nebraska offices for Gordon & Rees, LLP. He is a litigator with broad experience in numerous areas of complex litigation in federal and state courts, as well as in arbitration. Mr. Rawl has a recognized reputation for his defense of large national builders, product manufacturers, hospitals, and other health care entities.

After receiving his Master of International Business Studies and his Juris Doctor degrees, he served as law clerk to The Honorable P. Michael Duffy, U. S. District Judge, District of South Carolina, from 1995 until he joined McNair Law Firm, P.A. in November 1997. Prior to joining Gordon & Rees, Mr. Rawl was with McNair Law Firm for approximately 20 years, where he was the Chair of their Class Action Practice Group. Mr. Rawl utilizes his legal experience and business education to evaluate each case individually and to formulate innovative and creative strategies tailored to client-specific needs and goals.

Mr. Rawl has been highly rated by his peers practicing in his jurisdictions. Mr. Rawl is Martindale-Hubbell Peer Review Rated "AV Preeminent" in Litigation, Construction Law, Health Law and Class Actions. Mr. Rawl is rated as a Super Lawyer for "Class Action / Mass Torts" by Super Lawyers Magazine. Mr. Rawl is also listed in Best Lawyers in America® for Commercial Litigation and Construction Law.

Michael “Mike” S. Seekings

*Leath, Bouch & Seekings, LLP
Charleston, SC*

Mike is serving a third term as Charleston City Councilman representing District 8. He is Chairman of CARTA, Chairman of the Sustainability Advisory Committee, Chairman of the Traffic and Transportation Committee, on the Board of the Charleston Area Convention and Visitor Bureau, the Gibbs Museum, and the Cooper River Bridge Run.

Mike is a magna cum laude graduate of Amherst College and received his law degree from the University of Pittsburgh. Following law school, he clerked for former South Carolina Governor Donald S. Russell on the United States Court of Appeals for the Fourth Circuit and thereafter worked for Latham & Watkins, in its Washington, D.C. office. He now runs his own firm, representing owners in complex construction defect litigation. He is a member of the South Carolina, New York, and District of Columbia Bar Associations and is admitted to practice before the United States Supreme Court, the Fourth Circuit Court of Appeals and the District of South Carolina. He is a former

member of the South Carolina Bar's House of Delegates and the executive committee of the Charleston Bar. He is adjunct professor at the Charleston School of Law and the College of Charleston.

Mr. Seekings is a private pilot and one of Charleston's most avid runners. He is married to Michele H. Seekings. Michele also has a passion for the outdoors.

Christy E. Mahon

Sweeny, Wingate & Barrow, P.A.

Columbia, SC

Course Planner

Christy Mahon is a member of Sweeny, Wingate & Barrow, P.A. She serves as the Chair of the South Carolina Bar Construction Law Section. Her practice areas include construction law, products liability, general insurance defense, insurance coverage litigation, and appellate advocacy. Prior to joining the firm, she was a staff attorney for the Supreme Court of South Carolina. She is a summa cum laude graduate from both undergraduate and law school. She was external editor and articles editor for her law school's Law Review, recipient of the Outstanding Scholastic Achievement Award, and recipient of the Corpus Juris Secundum Awards in Contracts, Property, Civil Procedure, and Torts. She is a member of the South Carolina Defense Trial Attorneys' Association and the Defense Research Institute.

L. Franklin "Frank" Elmore

Elmore Goldsmith, PA

Greenville, SC

For more than four decades, Frank Elmore has counseled and advised private and public owners, general contractors, subcontractors, sureties, and construction industry trade associations on a myriad of complex legal, strategic-risk management, and risk mitigation issues.

As a litigator, Frank has established seminal legal principles and doctrines including the enforcement of a subcontractor's bid to a general contractor; the ability of a general contractor to withdraw its bid based upon a bid error prior to acceptance by the owner; an insurance company's obligation to defend a contractor in litigation; and, the effect of material alteration of risk to a performance bond surety's obligations. His experience ranges from single family residential, multifamily, commercial, utility, highway heavy/bridge transportation structures, infrastructure, educational, industrial, manufacturing, and nuclear projects throughout the Southeast.

Frank is a certified mediator by the South Carolina state and federal courts. His resolve to continue negotiations after the formal mediation sessions end and his ability to reach resolution in complex multiparty construction cases place him in high demand as a mediator. He serves on

the National Construction Industry Panel of Arbitrators for the American Arbitration Association and conducts private arbitrations.

Frank's service to the construction industry includes serving as counsel to the South Carolina Asphalt Pavement Association and providing legal counsel to Carolinas AGC. He is a former member of the Advisory Board to the Clemson University School of Construction Management & Building Science. He is the past chairman of the South Carolina Transportation Policy Research Council (now SCFOR). He has presented seminars on legal issues affecting the construction and surety industry to the South Carolina Residential Home Builders Association, Carolinas AGC, Carolina ABC, Carolinas Surety Association, South Carolina Asphalt Pavement Association, South Carolina Board of Architectural Examiners, Southern Electrical Contractors Association, National Bond Claims Association, American Institute of Architects, Construction Financial Manager's Association, Professional Construction Estimators Association, National Association of Professional Engineers, and the National Association of Women in Construction.

In recognition of his service to the construction industry, Frank was one of five inaugural inductees into the Carolinas AGC Hall of Fame in 2016.

His service to the legal community includes past chairman of the Professional Responsibility Committee, South Carolina Bar Association; past chairman of the South Carolina Construction Law Section; permanent presenter of the annual South Carolina Construction Law Update to the South Carolina Construction Law Section; past chairman Division 10 Energy & Environment, ABA Forum on Construction Law; past chair Special Programs & Education Committee, ABA Forum on Construction Law; past Governing Committee Member, ABA Forum on Construction Law; Board of Governors and Fellow of the American College of Construction Lawyers; Fellow in the Litigation Council of America; Fellow in the Construction Law Society of America, and Master in the Haynsworth-Perry Chapter of the American Inns of Court. He has presented programs on legal issues affecting the construction and surety industry to the South Carolina and North Carolina Construction Law Sections; the South Carolina Bar Association; the Tennessee Construction Lawyers Association; the University of Kentucky School of Law Continuing Legal Education program; and, the ABA Forum on Construction Law. He is the drafter of the Mechanic's Lien and payment bond law revisions to the South Carolina Code of Laws and the co-editor of *The Fundamentals of Construction Law 2d. ed.*, ABA Forum on Construction Law, 2015.

Frank has held an "AV" rating from Martindale-Hubbell for over 30 years. He is listed in Best Lawyers in America, Super Lawyers, Legal Elite, and Who's Who Legal in the areas of Construction Litigation and Construction Law. In 2013 and 2014, he was named "Construction Lawyer of the Year" for Greenville, South Carolina, by Best Lawyers. In 2014, he also was listed in the Top 25 Lawyers in South Carolina by Super Lawyers.

Frank is a graduate of Francis Marion University, where he serves on its Board of Trustees, and the University of South Carolina School of Law.

Bryan P. Kelley

*Elmore Goldsmith, PA
Greenville, SC*

Bryan represents a wide range of general contractors, subcontractors, developers, and surety companies in North and South Carolina. He primarily practices in the areas of construction law and surety claims and disputes. Bryan's experience includes assisting clients with mechanic's liens, bond claims, payment claims, defect litigation, insurance coverage, scheduling and delay issues, and change order disputes. He has served as a lecturer on a variety of construction topics for legal and industry groups including Carolinas Associated General Contractors. He is a co-author of the South Carolina Construction Law Deskbook, published by the Construction Law Section of the South Carolina Bar, and is a frequent contributor to Elmore Goldsmith's construction law blog (elmoregoldsmith.com/hardhatblog). Bryan is rated "AV" preeminent by Martindale-Hubbell.

After graduating from the University of South Carolina School of Law, Bryan served as a Law Clerk to the Honorable J. Derham Cole, Resident Judge of the Seventh Judicial Circuit of South Carolina, and as an assistant Solicitor for the Seventh Circuit Solicitor's Office in Spartanburg, South Carolina. He joined Elmore Goldsmith in 2009.

Benjamin E. "Ned" Nicholson, V.

*Burr Forman McNair, LLP
Columbia, SC*

Course Planner

Ned Nicholson practiced law with the McNair Law Firm for 29 years in its Columbia office. As of January 1, 2019, McNair Law Firm and Burr & Forman, an Alabama based regional law firm, combined and Mr. Nicholson is now a Partner with Burr Forman McNair. A native of Edgefield, South Carolina, after his graduation from Wofford College and the University of South Carolina School of Law he served for two years as Judicial Clerk to The Honorable Thomas L. Hughston, Jr.

Mr. Nicholson has extensive lead counsel trial experience in state and federal trial and appellate courts throughout the country, primarily involving construction disputes, insurance coverage disputes, general commercial litigation, and intellectual property law. As part of his construction law practice, he has represented clients in hundreds of both construction disputes and construction contract negotiations for owners (including counties, cities, and school districts), contractors, subcontractors, design professionals and developers, the latter with a goal of avoiding future disputes.

Mr. Nicholson's construction-related representations include representations of: an owner of a discontinued nuclear power plant project that resulted in over \$300 million dollars in liens and related claims, a South Carolina county in its engineering malpractice lawsuit, a school district in a claim by a contractor for additional compensation, a Fortune 100 international company in a multi-million dollar dispute over dredging and treatment of contaminated materials, a Fortune 100 company in a construction defect lawsuit against the designer and builder of its

manufacturing facility in South Carolina, numerous insurance coverage cases in South Carolina's federal and appellate state courts, and hundreds of other lawsuits, arbitrations, and mediations involving all aspects of construction claims including construction defects, delays, bonds, mechanics liens, involving hundreds of millions of dollars in dispute. He is a South Carolina Supreme Court Certified Mediator.

He is Vice-Chair of the South Carolina Bar's Construction Law Section's Governing Council, the South Carolina Bar's Trial and Appellate Advocacy Section, a member of the American Bar Association's Construction Law Forum, and a South Carolina representative of the Legal Action Network for Development Strategies of the National Association of Home Builders.

Mr. Nicholson has been repeatedly selected for inclusion in The Best Lawyers in America®, Commercial Litigation, Construction Law, and Intellectual Property Law and has been selected for inclusion in Super Lawyers® 2014-18. He was recognized by the Home Builders Association of South Carolina's *Builder News Network* for his work for the construction industry in 2011. He was an author of pioneering insurance coverage legislation passed by the South Carolina General Assembly to assist owners and contractors to retain CGL insurance coverage for construction defect claims.