Introduction

One of the stimulating but challenging features of a construction law practice is that it involves many areas of law. In addition to a heavy dose of contract and general business law, the construction attorney needs, at various times, to be conversant with principal and surety concepts, real estate principles, trial and arbitration law and procedure, labor and employment law, and a variety of specialty laws specific to the construction industry. The foregoing (nonexclusive) list is further complicated by lack of uniformity among the various jurisdictions in which our clients work and that, in the case of international projects, may differ radically from American law and tradition. Our clients frequently customize their relationships between projects, further complicating the analysis of their issues. The typical construction law practice makes an attorney that he or she must be both a jack-of-all-trades as well as a master of all trades.

Attorneys have long used checklists as a quick reference tool when an emergency does not permit patient deliberation regarding a particular issue until a later time. Checklists are also useful to double-check relevant issues for consideration. Recognizing this, the ABA Forum on the Construction Industry has tapped the considerable experience of its members to generate checklists covering a wide array of issues that most construction attorneys will encounter in their practice. This book includes checklists for reviewing a variety of contracts as well as specific contract clauses, checklists for design issues, contract administration issues, pre-litigation and litigation checklists, topical checklists for labor and employment issues, government contracting, international contract issues, and an assortment of other issues.

This book does not attempt to cover every issue a construction attorney will encounter. However, most construction attorneys will regularly encounter numerous issues covered by the checklists in this book. More significantly, many checklists in this book are also available to assist the construction attorney who encounters an area only infrequently and is particularly in need of an outline formulated by attorneys who regularly practice in that area.

This book was designed to be a “desk book”—a practical reference tool to be freely pulled off the shelf to provide guidance on short notice or as a handy tool to double-check your thinking on a particular issue. If in time its cover is
creased and worn and the corners of its pages are bent from use, then it has served its purpose. The many authors who have invested the time to draft the checklists included herein hope this book will be a valuable addition to your construction law library.

Fred D. Wilshusen