INTRODUCTION

Any intelligent fool can make things bigger, more complex, and more violent. It takes a touch of genius—and a lot of courage—to move in the opposite direction.

—Ernst F. Schumacher

As noted in the introduction to the previous edition of this book, there is no more complex area of legal practice than the litigation of the “mega” construction surety case. Few other areas of law offer the panoply of factual and legal issues underlying the rights and obligations of the multiple parties involved in any major construction project. As with the two prior editions of this book, highly experienced contributors provide their expertise and guidance as to how to navigate through such complexity to a simpler conclusion.

This third edition of Managing and Litigating the Complex Surety Case builds upon the excellent work in the prior editions, but with the benefit of the developments of the law over the past twenty years since the book’s initial publication. The first edition was compiled under the expert guidance of Philip L. Bruner, a past-chair of the Fidelity and Surety Law Committee and undeniably one of the most respected and well known surety and construction litigators in the United States. Ten years later in 2007, Tracey L. Haley joined Mr. Bruner in preparing the second edition. Now, ten years later, it is time for the next edition that builds upon these past works. In this edition, we have included many of the subjects of the original editions, but have expanded it to include additional chapters and approaches to existing chapters that reflect the development of law over the last ten years. We hope that in ten more years, the Fidelity and Surety Law Committee will again update this edition to address further development of the law after this publication.

In addition to the publication of this third edition, Toni Scott Reed has provided us the opportunity to serve as co-chairs of a conference in Santa Fe, New Mexico to present this manual. As was done with the previous two editions, a faculty of talented, senior trial lawyers, surety claims representatives, and consultants with broad and unmatched experience has been dissembled to provide in-depth exploration of the topics in this manual. This manual is a testament to the collective
expertise of that faculty. The exceptional contributions of each and every faculty member are acknowledged with appreciation.

In the preparation and editing of this manual, we express our heartfelt appreciation to Andrew Carter, a member at Clark Hill Strasburger, in Dallas, Texas, for his assistance in editing the manual, as well as Melissa Bowers, a legal administrative assistant at Clark Hill Strasburger for her diligence, care, attention, and tenacity in preparing this manual, and Christine Grey, a word processing specialist at Clark Hill Strasburger for her expertise in formatting this manual for publication. Andrew’s, Melissa’s, and Christine’s contributions truly were invaluable.

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