



## Richard F. Paciaroni

### Partner

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## OVERVIEW

For the past 33 years, Richard Paciaroni has concentrated his law practice in the area of commercial litigation with emphasis on engineering and construction law and international commercial transactions. He has extensive experience with construction disputes worldwide with a particular focus on projects in South America and the Middle East. In the construction field, his practice includes representation of owners, engineers, general contractors and specialty subcontractors in matters involving the offshore oil & gas, petrochemical, steel, heavy & highway, pulp and paper, power generation and general building construction industries on matters ranging from \$1 million to \$6 billion. Richard's experience includes both private and public works projects, bonding and insurance claims, mechanic's liens and Miller Act claims, government contracting and the drafting and negotiation of construction contracts.

## PROFESSIONAL BACKGROUND

- K&L Gates, 1986-date, partner since 1994
- Project Engineer with LTV Steel Corporation 1981-1984

## PROFESSIONAL / CIVIC ACTIVITIES

- Selected for inclusion in the 2013 - 2020 edition of *The Best Lawyers in America* in the practice areas of Commercial Litigation, Construction Law and Litigation-Construction.
- Selected for inclusion in the 2012 edition of *The Best Lawyers in America* in the practice area of Litigation-Construction.
- Selected "Pennsylvania SuperLawyer" for Construction by *Philadelphia Magazine* (2004, 2008, 2009, 2013 - 2019)
- Member of Engineers' Society of Western Pennsylvania
- Pennsylvania Bar Association (Construction Litigation Section, Civil Litigation Section, Federal Practice Section)

- Allegheny County Bar Association (former Chair, Construction Law Section)
- American Bar Association (Forum Committee on the Construction Industry, Tort and Insurance Practice Section)
- International Bar Association
- Member of AAA National Panel of Arbitrators since 1991

## SPEAKING ENGAGEMENTS

- Panel Speaker – Construction SuperConference, San Diego, California, “Be Prepared! Best Practices to Deal with Disrupted or Terminated Construction Projects due to “Black Swan” Events”, December 9, 2015.
- Panel Speaker – Joint Marsh/K&L Gates Seminar - EPC Contracting Issues in the Oil and Gas Industry – “Successfully Resolving Disputes Under EPC Contracts” – November 2015, Houston, Texas.
- Panel Moderator and Speaker - K&L Gates' Construction Master Class - “FIDIC Contracts in Qatar and the GCC Region,” May 15, 2014, Doha, Qatar.
- Panel Speaker – Engineer's Society of Western Pennsylvania Program on Project Development: “Failure is an Option,” Pittsburgh, PA, April 17, 2013.
- Panel Speaker – FIDIC Americas Contract User's Conference, New York City, October 2012 – “Successfully Resolving Disputes Under FIDIC.”
- Panel Speaker – Joint Marsh/K&L Gates Seminar “Major Construction Projects – Key Risk and Insurance Strategies” – September 2012, Dubai.
- Panel Speaker, Lorman Seminar, “Sales of Goods: Battle of the Forms Under UCC and CISG – A Practical Perspective.” August 10, 2011.
- Guest Lecturer, Construction Law, Luiss University, Rome, Italy, Masters Program in Construction Management. 2010.
- Panel Speaker, Construction Superconference, San Francisco, California, “When Lessons Learned Aren't.” December 17, 2010.
- Panel Speaker, International Bar Association Annual Meeting in Buenos Aires, Argentina, “Electronic Documentation in International Construction Arbitration, The Role of the Tribunal in Controlling Costs and Saving Time.” October 14, 2008.
- Panel Moderator and Speaker, International Arbitration Day “Managing Risks in High Growth – High Risk Markets.” September 10, 2008.
- Panel Moderator and Speaker, International Arbitration Day “Managing Cross Cultural Factors.” October 4-5, 2007.

- Panel Moderator and Speaker, International Arbitration Day “Techniques for Controlling Time and Cost in Arbitration.” April 19, 2007.

## EDUCATION

- J.D., Duquesne University School of Law, 1986 (*cum laude*; *Senior Staff Member, Duquesne Law Review*)
- B.S., Drexel University, 1981 *Civil Engineering*

## ADMISSIONS

- Bar of Pennsylvania
- Supreme Court of the United States
- United States Court of Appeals for the Fifth Circuit
- United States Court of Appeals for the Tenth Circuit
- United States Court of Appeals for the Third Circuit
- United States District Court for the Central District of Illinois
- United States District Court for the District of Colorado
- United States District Court for the Western District of Pennsylvania

## THOUGHT LEADERSHIP POWERED BY HUB

- 6 April 2020, COVID-19: Pennsylvania Construction Amid COVID-19 (*Alerts/Updates*)
- 15 August 2019, An Overview of Pennsylvania’s New Arbitration Law (*Research Surveys*)
- 14 August 2019, An Overview of Pennsylvania’s New Arbitration Law (*Alerts/Updates*)

## OTHER PUBLICATIONS

- Author, “Pennsylvania Construction Amid COVID-19,” *Construction Alert*, April 2020.
- Co-author, “United States EPC Construction Contracting in the Wake of COVID-19,” *Construction Alert*, April 2020.
- Author, “Middle East Arbitration Centers – Qatar Joins the Fray,” *K&L Gates Arbitration World*, March 2013.
- Author, “International Arbitration in Chile – 2004 and Beyond,” *K&L Gates Arbitration World*, September 2012.
- Author, “Unsolved Mystery: Colombia’s International Arbitration Law,” *K&L Gates Arbitration World*, June 2012.

- Author, "International Commercial Arbitration in Brazil – A Primer," K&L Gates Arbitration World, August 2011.
- Co-author, "Anti-Indemnity Statutes: A Threat to Limitation of Liability Clauses?," by Richard F. Paciaroni and Janet M. Serafin.
- Co-author, "Construction Law," Forensic Science and Law, 2006.
- "Understanding the Issues Prior to Construction," presented at the Pennsylvania Bar Institute's Dealing With Mold Claims, 29 January 2003.
- "Plaintiff's Perspective on Toxic Mold," presented at the Pennsylvania Bar Institute's Dealing With Mold Claims, 29 January 2003.
- Solving Water Intrusion and Mold Problems in Pennsylvania - Prepared for Solving Water Intrusion and Mold Problems, 14 May 2002.
- "Pennsylvania Construction Payment Remedies," prepared for one-day K&L Gates Seminar, 3 October 2001.

## AREAS OF FOCUS

- Construction and Infrastructure
- Complex Commercial Litigation and Disputes
- Construction and Infrastructure Dispute Resolution
- Construction and Infrastructure Project Funding
- Corporate Energy Sourcing and Sustainability
- E-Discovery Analysis and Technology (e-DAT)
- Government and Public Procurement
- International Arbitration
- K&L Gates Trial Academy
- Liquefied Natural Gas
- Mass Tort
- Offshore Construction
- Oil and Gas
- Product Liability
- Rail and Roads
- Water and Wastewater

## INDUSTRIES

- Energy
- Power Generation and Transmission

## REPRESENTATIVE EXPERIENCE

- Advise U.S. based contractor (joint venture) with respect to claims arising out of the construction of a 6.5 mile section of a new \$250 million toll road (Manor Expressway) located in Austin, Texas.
- Advise U.S.-based general contractor with respect to liability arising from the failure and collapse of concrete formwork/shoring which resulted in injuries and one fatality.
- Lead counsel for a U.S.-based EPC contractor in connection with claims arising out of the design and construction of a materials handling system for a coal mine located in Pennsylvania.
- Lead counsel to an international EPC consortium in connection with claims in excess of \$350 million that arose out of the construction of a 600 MW power plant and associated 30mm gal./day seawater desalination plant located in Qatar. The matter went to arbitration under the auspices of the ICC. Seat was Manama, Bahrain, Qatari law applied. Language was English. Initial hearings were held in Paris, France. Claims were settled in a manner favorable to the consortium prior to evidentiary hearings.
- Counsel to owner of the largest refinery in Libya in connection with disputes with crude oil supplier and breaches of the Feedstock Supply Agreement. The matter is currently in arbitration under the auspices of the ICC. The seat is in Paris, Libyan law applies.
- Counsel to Emirati conglomerate against its co-venturer with respect to disputes and breaches of a Shareholder's Agreement. The dispute relates to the ownership and control of an oil refinery in Libya. The matter is currently in arbitration under the auspices of the ICC. The seat is in Paris, English law applies.
- Lead counsel representing the owner of the world's largest zinc recycling plant in connection with claims against the design engineering firm for defective design and engineering for the plant. This matter went to an ad hoc two week hearing conducted in Pittsburgh, PA in August 2018. The award was substantial and in favor of our client.
- Lead construction claims counsel to an international consortium which acted as the EPC contractor for the design, construction and start-up of an \$800 million chemical complex located in Rio de Janeiro, Brazil.
- Counsel to international engineering firm in connection with defective design claims arising out of the design and construction of a solid waste processing plant being built in southeastern Pennsylvania.
- Lead counsel to Dubai-based architecture firm in connection with ownership disputes among the shareholders. Mr. Paciaroni represented the majority shareholders against claims asserted by certain minority shareholders. The matter was conducted under the auspices of the ICDR and ten days of hearings were held in August 2017. The Tribunal entered an award in September 2017 that was favorable to Mr. Paciaroni's clients.

- Trial counsel for electrical contractor in a lawsuit involving breach-of-contract and Pennsylvania Contractor and Sub-Contractor Payment Act claims concerning the renovation of a country club and restaurant. The case was tried to a jury verdict in favor of the contractor in the Court of Common Pleas of Beaver County
- Lead construction claims counsel to international EPC Consortium in connection with claims arising out of the construction of an ammonia/urea fertilizer plant located in Nangal, India
- Lead counsel to Italian EPC contractor in connection with claims arising out of the construction of two polyolefin plants (PE and LLDPE) located at Dahej, Gujarat, India.
- Counsel to a French EPC contractor in connection with the construction of certain blast furnace equipment and an air separation plant for a steel mill located in Santa Cruz, Brazil.
- Lead counsel for an international EPC contractor in connection with claims arising out of the construction of a 3,700 MTPD methanol plant located in Egypt.
- Lead counsel for EPC contractor in connection with claims arising out of the construction of the world's largest hydrogen production plant located in Richmond, California.
- Lead counsel to an Italian EPC contractor in connection with claims arising out of the construction of a new AGRP (Acid Gas Removal Plant) and revamp of existing AGRP located at the Mina Al Ahmadi refinery in Kuwait.
- Lead counsel to an Italian EPC contractor in connection with claims arising out of the construction of five hydroelectric power plants in southwestern Brazil. The dispute went to arbitration under the auspices of the ICC. Seat is Cuiaba, Brazil, Brazilian law applies. Language was Portuguese. First phase of hearings was completed in 2012 resulting in a substantial award in favor of the EPC contractor.
- Lead counsel for an international EPC consortium with respect to claims arising out of the construction of a \$1.4 billion polyethylene/polypropylene/butene plant located in Saudi Arabia.
- Lead counsel for an international EPC contractor with respect to claims arising out of the construction of two 370 MW coal-fired power plants constructed in Chile.
- Lead counsel to a U.S.-based engineering firm in connection with claims arising out of the design of a new electric furnace melt shop facility constructed in Alabama.
- Lead counsel for U.S.-based contractor in connection with claims arising out of the construction of a materials handling system for a 1.5 million TPY coke oven battery that was built in Vitoria, Brazil. Matter went to arbitration under the auspices of the ICC. Seat was Rio de Janeiro, Brazil, Brazilian law applied. Language was English. The claims were settled prior to hearings.
- Lead counsel to manufacturer of heat tracing cables in connection with the design and supply of heat tracing cables, control panels and insulation for the largest parabolic mirror solar power plant in the USA, with nearly one million mirrors. The prime contractor is claiming the manufacturer supplied defective control panels and is late in providing and installing the heat trace materials at the project site, thus causing a delay to the start-up of the plant. The dispute also involves claims for additional work for which the contractor refuses to issue valid

change orders. This plant utilizes molten salt as a heat retention and transfer fluid, the heat tracing is needed to keep the process piping, valves and instruments at the required process temperature of 575 degrees F.

- Lead counsel to manufacturer of heat tracing cables in connection with a multi-million dollar dispute arising out of the supply of heat tracing for a 350 MW gas-fired power plant that was built in Pennsylvania. The prime contractor is claiming the manufacturer supplied defective heat trace cables and that the failure of the cables delayed the start-up of the plant. The manufacturer contends that the prime contractor is responsible for the problems with the HT cables due to its defective installation of the cables.
- Counsel for multinational contractor with respect to over \$1 billion in claims arising out of one of the world's largest offshore oil and gas projects with an initial contract price of over \$2.5 billion.
- Lead counsel to owner of a new heavy steel plate rolling mill currently under construction in Ohio. Mr. Paciaroni counsels the owner in a variety of areas, including the drafting of contracts for the purchase of heavy equipment as well as drafting of construction contracts for use with prime contractors.
- Lead counsel advising a manufacturer of specialty steel cutting equipment in connection with disputes arising out of the purchase of specialty milling equipment intended for use in making cutting tools. The matter is currently in mediation in Ohio.
- Counsel to U.S. based home delivery food manufacturer in connection with the design and construction of a new food processing and shipping facility in Maryland. This matter involved faulty construction of prefabricated wall panels as well as defective HVAC system in the cooking kitchen. The case spawned eleven (11) separate Mechanic's Lien actions filed in Maryland state court that had to be addressed along with the main claim against the design/builder. The matter went through a multi-week mediation with the eventual being successful for the client and resulted in the removal of all 11 liens.