



## Richard F. Paciaroni

### Partner

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## OVERVIEW

For almost 40 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 and gas, petrochemical, steel, heavy and highway, pulp and paper, power generation, and general building construction industries on matters ranging from US\$1 million to US\$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

## ACHIEVEMENTS

- Recognized in *Chambers USA* for Construction in Pennsylvania, 2023
- Listed in *The Best Lawyers in America*®
  - Commercial Litigation, 2013-2024
  - Construction Law, 2013-2024
  - Litigation-Construction, 2012-2024
- Named to the Pennsylvania Super Lawyers list for Construction, 2004, 2008, 2009, 2013-2019

## PROFESSIONAL / CIVIC ACTIVITIES

- Previously a 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)
- 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”, 9 December 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,” 15 May 2014, Doha, Qatar.
- Panel Speaker – Engineer's Society of Western Pennsylvania Program on Project Development: “Failure is an Option,” Pittsburgh, PA, 17 April 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.” 10 August 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.” 17 December 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.” 14 October 2008.
- Panel Moderator and Speaker, International Arbitration Day “Managing Risks in High Growth – High Risk Markets.” 10 September 2008.

- Panel Moderator and Speaker, International Arbitration Day “Managing Cross Cultural Factors.” 4-5 October 2007.
- Panel Moderator and Speaker, International Arbitration Day “Techniques for Controlling Time and Cost in Arbitration.” 19 April 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

- 19 September 2022, AAA Amendments to the Commercial Arbitration Rules and Mediation Procedures
- 6 April 2020, COVID-19: Pennsylvania Construction Amid COVID-19
- 15 August 2019, An Overview of Pennsylvania’s New Arbitration Law

## 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.

## NEWS & EVENTS

- 1 June 2023, K&L Gates Receives Firm, Individual Rankings in 2023 *Chambers USA* Guide
- 18 August 2022, More Than 350 K&L Gates Lawyers Named Among 2023 Best Lawyers in America, Ones to Watch
- 19 August 2021, Nearly 300 K&L Gates Lawyers Named Among 2022 Best Lawyers in America, Ones to Watch

## AREAS OF FOCUS

- Construction and Infrastructure
- Commercial Disputes
- Construction and Infrastructure Dispute Resolution
- Government and Public Procurement
- International Arbitration
- Mining and Metals
- Offshore Construction
- Oil and Gas
- Rail and Roads

- Water and Wastewater

## INDUSTRIES

- Energy
- Power Generation and Transmission

## REPRESENTATIVE EXPERIENCE

### POWER GENERATION

- Lead counsel for a Taiwanese civil/structural subcontractor in connection with disputes arising out of the construction of a new 500 MW gas-fired power plant that is under construction in Taiwan. The seat is Taipei, Taiwan and the arbitration is being conducted under the auspices/rules of the Hong Kong Int'l Arbitration Center (HKIAC) (Domestic). The applicable law is Taiwanese law and the language of the arbitration is English.
- Lead counsel to an international EPC consortium in connection with claims in excess of US\$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.
- 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 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 claimed that the manufacturer supplied defective control panels and was 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 involved claims for additional work for which the contractor refuses to issue valid change orders. The matter was settled in a manner favorable to the client before hearings were commenced.
- 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 claimed that the manufacturer supplied defective heat trace cables and that the failure of the cables delayed the start-up of the plant. The matter was settled in a manner that was satisfactory to the client.

### STEEL AND OTHER METALS PLANTS

- 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 counsel to the owner of a new heavy steel plate rolling mill in connection with claims in excess of US\$11 million arising out of the design and procurement of the equipment for the mill that was built in Ohio. The matter started as a AAA arbitration and was eventually settled after a long mediation in a manner that was very favorable to the client. The seat was Pittsburgh, Pennsylvania and Pennsylvania law applied.
- 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 to a US-based engineering firm in connection with claims arising out of the design of a new electric furnace melt shop facility constructed in Alabama.

## **PETROCHEMICAL PLANTS**

- 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.
- 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 for an international EPC consortium with respect to claims arising out of the construction of a US\$1.4 billion polyethylene/polypropylene/butene plant located in Saudi Arabia.
- Lead construction claims counsel to an international consortium which acted as the EPC contractor for the design, construction, and start-up of an US\$800 million chemical complex located in Rio de Janeiro, Brazil.
- Counsel to owner of the largest refinery in Libya in connection with disputes with crude oil supplier and breaches of the Feedstock Supply Agreement. Counsel to Emirati conglomerate against its co-venturer with respect to disputes and breaches of a Shareholder's Agreement. The dispute related to the ownership and control of an oil refinery in Libya.

## **HYDROELECTRIC PLANTS**

- 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.

## **OFFSHORE OIL AND GAS**



- Counsel for multinational contractor with respect to over US\$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 US\$2.5 billion. The claims arose in connection with the construction of two FPSO's for use in off shore oil fields in Brazilian waters. After about one year of negotiations, the claims were settled in favor of the contractor, with the owner granting the contractor a large US\$700 million change order and a multi-year time extension to complete the project.

## WASTE TO ENERGY PLANTS

- Counsel to international engineering firm in connection with defective design claims arising out of the design and construction of a prefabricated metal building used as part of a solid waste processing facility being built in southeastern Pennsylvania. The case is currently in state court litigation and discovery is ongoing.

## HIGHWAY AND ROADS

- Advise US based contractor (joint venture) with respect to claims arising out of the construction of a 6.5 mile section of a new US\$250 million toll road (Manor Expressway) located in Austin, Texas.
- Advise US-based general contractor with respect to liability arising from the failure and collapse of concrete formwork/shoring which resulted in injuries and one fatality.

## OTHER CONSTRUCTION LITIGATION

- Lead counsel on a façade failure litigation in state court in Pennsylvania. Mr. Paciaroni represents the owner of a very large office complex outside of Pittsburgh. The masonry façade was defectively constructed by the contractors and architects and is cracking and falling off the building. Discovery is ongoing in the case.
- Lead counsel for a US-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 for US-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.
- Counsel to US 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 successful multi-week mediation with the outcome being satisfactory to the client.
- 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 was settled after mediation.
- 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 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.