
BRIAN R. DAVIDSON

Brian R. Davidson

Litigation - Construction
Pittsburgh, Pennsylvania**AREAS OF PRACTICE**

Mr. Davidson's practice is concentrated in the area of complex commercial litigation with an emphasis on construction industry litigation. He has represented domestic and foreign corporations in international (ICC, UNCITRAL, AAA and AD HOC) arbitration proceedings, as well as federal and state court proceedings. He regularly represents owners, contractors and general contractors. Mr. Davidson has been involved in negotiating, drafting and providing risk assessments of construction industry contracts for numerous projects, including complex engineering, procurement and construction (EPC) contracts. He has been involved in several multi-million dollar industrial projects, including tunneling, steel, offshore oil and gas, and power facilities. His practice has included counseling regarding insurance coverage for construction industry claims under builders risk policies, construction all risk, commercial general liability policies, and professional liability policies. His insurance industry practice also includes arbitration and counseling experience in the areas of boiler and machinery insurance and facultative and treaty reinsurance.

PROFESSIONAL BACKGROUND

- Partner, Dingess, Foster, Luciana, Davidson & Chleboski LLP, March 2010 - Present
- Partner, K&L Gates, 2004 - February 2010
- Associate, K&L Gates, 1994 - 2003

PRESENTATIONS

- “Dealing with Concurrent Delay Claims on Large-Scale EPC Projects,” presented at the 3rd EPC Contract and Risk Management Conference, Houston, TX (2016)
- “Addressing the Cost-Reimbursable Mindset - How to Better Balance and Manage Risk Between Parties,” presented at the Construction SuperConference, San Diego, CA (2015)
- “Cost Reimbursable Contracts,” presented at the 2nd EPC Contract and Risk Management Conference, Houston, TX (2015)
- “Oil & Gas Megaprojects – Challenges in Execution in the US,” presented at the Construction SuperConference, Las Vegas, NV (2014)
- “Overcoming Obstacles in Managing Disputes that Arise During the Project Lifespan,” presented at the EPC Contract and Risk Management Conference, Houston, TX (2014)
- “Identifying and Managing Risk on Large-Scale Construction Projects,” presented at the Construction SuperConference, San Francisco, CA (2013)
- “Current Issues Impacting Construction Litigation: The Law of Construction Defects and Failures; E-Discovery in Construction Cases; and Arbitration of Construction Disputes” Allegheny County Bar Association, Construction Law Section, Pittsburgh, PA (February 12, 2013)
- “Strategies for Reducing Defects and Failures,” presented at “Law of Construction Defects & Failures” Seminar, Pittsburgh, PA (August 16, 2012)
- “Anatomy of a Troubled Project: How to Most Effectively Deal with Construction Projects in Crisis,” Allegheny County Bar Association, Construction Law Section, Pittsburgh, PA (December 2, 2010)
- “EPC Contracting – Is It As Easy as ABC,” presented at the Construction SuperConference, San Francisco, CA (2009)
- “Allocating Risk in Today’s Marketplace” presented at the Construction SuperConference, San Francisco, CA (2007)
- “The Effective Expert Witness: What Compels an Arbitrator, judge and/or Jury?” presented at the Construction SuperConference, San Francisco, CA (2007)
- Co-Author, “Overview of Arbitration in Latin America,” presented at Topical Issues in International Arbitration (March 23, 2006)
- “Cross-Border Application of Privilege Doctrines,” presented at ABA Section of International Law 2005 Fall Meeting, Brussels, Belgium (October 26, 2005)
- Co-Author, “Conflicts of Interest in International Arbitration,” presented at Innovative and Cost Effective Ways of Managing International Arbitral Disputes, London, England (April 7, 2005)
- Co-Author, “Life on the Other Side of The Pond – A Look at Some of the More Unique Aspects of American Jurisprudence Relevant to Construction Project,” presented at The Second Global Project Superconference, London, England (May 16, 2003)
- “Pennsylvania Bond and Lien Law,” continuing legal education programs in Harrisburg and Pittsburgh, PA (1999 and 2000)
- Co-Author, “Arbitration under Pennsylvania and Federal Law,” presented at Allegheny Bar Association Conference (Winter 1996)

PUBLICATIONS

- “Do the New Discovery Procedures of the Construction Industry Arbitration Rules Promote the Traditional Benefits of Arbitration?,” CONSTRUCTION LAW AND BUSINESS, March/April (2001)
- Co-author, “The Woolf Reforms: Changing a Nation’s Justice System,” CONSTRUCTION LAW AND BUSINESS, (Summer 2000)
- Co-author, “Arbitration of International Construction Disputes,” CONSTRUCTION LAW AND BUSINESS (Spring 2000)

PROFESSIONAL/CIVIC ACTIVITIES

- International Bar Association (Arbitration, International Construction Projects and Law Firm Management Committees)
- American Bar Association, Construction Law Section
- Allegheny County Bar Association, Construction Law Section, Vice-Chair (2012-2013) Chair (2013-2014)
- Pennsylvania State Bar Association

COURT ADMISSIONS

- Supreme Court of Pennsylvania
- United States Court of Appeals for the Third and Fifth Circuits
- United States District Court for the Western District of Pennsylvania
- United States District Court for the Eastern District of Pennsylvania
- *Pro Hac Vice* admission to state and federal courts throughout the United States

BAR MEMBERSHIP

Pennsylvania

EDUCATION

J.D., University of Pittsburgh School of Law, 1994 (*Summa Cum Laude*; Managing Editor, UNIVERSITY OF PITTSBURGH LAW REVIEW; Order of the Coif)
B.S. (Industrial Management), Carnegie Mellon University, 1989

HONORS

Pittsburgh’s Best Lawyers (2010 - 2021)
Lawyers of Distinction (2020 – 2021)
United States Department of Defense, Patriotic Employer Award (2020)
Best Lawyers, Pittsburgh Construction Lawyer of the Year (2019)

REPRESENTATIVE ENGAGEMENTS

- Lead trial counsel for a joint venture design-build contractor arising out of the design and construction of a 57-foot bored tunnel in downtown Seattle, Washington.
- Lead trial counsel for a multinational engineering and construction company in connection with disputes arising out of a Propane Dehydrogenation and Polypropylene Upgrading Facility project in Alberta, Canada. The disputes are subject to a pending ICC arbitration before a three-member arbitration panel.
- Lead trial counsel for a general contractor in connection with disputes arising out of the construction of new high school complex. The matter is pending in the Court of Common Pleas of Allegheny County, Pennsylvania.
- Lead trial counsel for the owner of an industrial complex in connection with disputes arising out of the design, construction and failure of components of the complex. The matter was resolved satisfactorily to the owner.
- Lead trial counsel for a multinational engineering and construction company in connection with disputes arising out of a module fabrication and assembly project for an oil sands hydrogen project in Alberta, Canada. The disputes were subject to an *Ad Hoc* arbitration conducted pursuant to the Alberta Arbitration Act before a three-member arbitration panel.
- Lead counsel for a multinational engineering and construction company regarding the design, procurement, construction and installation of a flue gas desulfurization system (scrubbers) at a coal-fired power plant in Texas with a contract value of approximately \$193 million. Represented the contractor in disputes with the owner with respect to the contractor's claims for delays, additional work and unpaid invoices, and the owner's claims for defective work and liquidated damages. The disputes were subject to litigation in the courts of Texas. The matter was resolved favorable for the contractor prior to the commencement of litigation.
- Lead counsel for the owner of a coal-fired power plant in connection with ongoing disputes and claims with the contractor and designer arising out of the design, engineering, procurement, construction, supply, installation and start-up of a flue gas desulfurization system.
- Lead counsel for a multi-national engineering and construction company in connection with disputes arising out of the design, fabrication, supply, installation and start-up of a super-critical steam generator for use in a 750 MW, coal-fired power generation unit. The disputes, which were subject to arbitration pursuant to the American Arbitration Association Rules, were resolved prior to hearings through a series of settlement agreements.

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- Lead counsel for a subcontractor in connection with disputes with the EPC Contractor arising out of the construction of The Panama Canal - Third Set of Locks Project. The matter, which was subject to ad hoc arbitration under the UNCITRAL Arbitration Rules (1976), was settled favorably to the subcontractor prior to the commencement of arbitration.
 - Lead counsel for a multinational engineering and construction company regarding an offshore oil & gas project dispute with respect to subsea flow line issues. The dispute was subject to ad hoc arbitration under the UNCITRAL Arbitration Rules (1976) before a three member international arbitration panel.
 - Lead counsel for one of the world's largest multinational engineering and construction companies in connection with disputes arising out of a lump-sum, turnkey contract for the engineering, procurement, fabrication, transportation and construction of a \$1.7 billion gas to liquids facility in Nigeria. Assisted the EPC Contractor in identifying, developing and evaluating delay and extra work claims against the project owner with an aggregate value in excess of \$200 million. The claims were subject to arbitration administered by the London Court of International Arbitration under the UNCITRAL arbitration rules. However, these disputes were resolved amicably prior to the commencement of arbitration proceedings.
 - Counsel for one of the world's largest multinational engineering and construction companies with respect to over \$1 billion in total claims on a single mega-project. The dispute centered on one of the world's largest offshore oil and gas projects with an initial contract price of over \$2.5 billion. The adversary was the national oil company of Brazil. Responsible for the development and management of various aspects of this matter. The engagement spanned a period of five years (2001-06) and required extensive worldwide travel, including travel to South America and Europe. While all disputes were subject to ultimate resolution under the UNCITRAL Arbitration Rules (1976), all disputes, with the exception of one, were resolved through a series of settlements without the necessity of formal arbitration proceedings. The settled disputes involved issues concerning engineering and construction changes and delays, claims of cardinal change, liquidated damages for delay, schedule analysis and claims of time and money entitlement, international letters of credit, value added tax (VAT) claims, force majeure claims and project finance issues in connection with a worldwide syndicate of commercial and national banks. Mr. Davidson is co-lead arbitration counsel for the remaining unresolved dispute with a value in excess of \$100 million.
 - Counsel to the consortium of international engineering and construction companies acting as the EPC contractor for the design, construction and start-up of an US\$800 million chemical complex located in Rio de Janeiro, Brazil. The complex consists of a 520,000 MTA light feedstock steam cracker facility for the production of polymer grade ethylene, integrated with a 540,000 MTA high density and linear low density polyethylene swing plant, with two single gas reactor Gas-Phase lines. Mr. Davidson assisted the consortium in identifying, evaluating and presenting claims against the

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- project owner and evaluating the owner's counterclaims. All disputes are subject to arbitration in New York, New York under the American Arbitration Association's Construction Industry Rules and Procedures for International commercial Arbitration.
- Lead Counsel for subcontractor in an ICC arbitration arising out of the design, supply, installation, commissioning, check-out and testing of a two stand reversing mill and equalizing furnace for a flat roll products mini mill in Ostrava, Czech Republic. The subcontractor asserted claims in the aggregate amount of approximately \$20 million for unpaid invoices, additional work, and value added tax. In addition, the contractor asserted counterclaims in the amount of approximately \$12 million. Following the hearings conducted in Vienna, Austria, the arbitration panel rendered an award favorable to the subcontractor.
 - Counsel for EPC Contractor in a series of ICC, AAA and UNCITRAL arbitrations and federal court proceedings arising out of the engineering, procurement, and construction of \$300 million mini strip mill in Samutprakarn, Thailand. Several months into the project, the owner suspended and eventually terminated the project as a result of its financial difficulties. Mr. Davidson represented the EPC Contractor as the claimant in an UNCITRAL arbitration against the project owner involving claims for damages arising out of the termination in the approximate amount of \$50 million. Mr. Davidson also represented the EPC Contractor in the defense of claims asserted in numerous forums by various subcontractors arising out of the owner's termination of the project.
 - Other recent engagements on behalf of international engineering and construction firms include:
 - Insurance coverage action in Louisiana arising out of damage to an LNG regasification terminal caused by Hurricane Ike
 - Counsel for contractor in drafting and negotiating EPC Contract for the engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing of a multi-billion dollar LNG Liquefaction Project in Mozambique, Africa.
 - Counsel for contractor in drafting and negotiating EPC Contract for the engineering, procurement, construction, pre-commissioning, commissioning, start-up and testing of a multi-billion dollar LNG Liquefaction Project in British Columbia, Canada.
 - Counsel for contractor in drafting and negotiating various contracts in connection with an early works project for a grassroots petrochemical facility in Monaca, Pennsylvania.

- Lead counsel for a multi-state professional services firm in connection with insurance coverage disputes arising out of legal malpractice claims. The claims, which were subject to litigation in Pennsylvania state court, were settled prior to trial.
- Insurance coverage action in United States Federal District Court in New York, New York arising out of a lump-sum, turnkey EPC Contract for a water injection and drilling facilities platform in the Norwegian Continental Shelf.
- Disputes arising out of the design of a \$1 billion semi-submersible platform in the Gulf of Mexico.
- Disputes arising out of the engineering, procurement, transportation, construction, commissioning and testing of a \$2 billion LNG facility in Papua, Indonesia.