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**JOSEPH L. LUCIANA, III**

Joseph L. Luciana III

Construction Law  
Pittsburgh, Pennsylvania**AREAS OF PRACTICE**

Mr. Luciana's practice is concentrated in the areas of litigation and counseling with emphasis on construction, construction insurance coverage and real estate. His practice also includes extensive experience in environmental litigation, toxic tort litigation, and environmental insurance coverage actions. He has litigation experience in both federal and state courts, AAA arbitrations and administrative proceedings and hearings.

Construction litigation experience includes representation of owners, general contractors, construction managers, engineers, subcontractors and equipment and material suppliers in lawsuits, arbitration proceedings, lien proceedings, insurance coverage actions, administrative proceedings and mediations. Construction insurance coverage actions have involved builders risk, construction all-risk, commercial general liability, professional liability, ocean marine cargo, bridge and tunnel and excess insurance policies. Mr. Luciana's experience also includes drafting, negotiating and reviewing construction contracts, negotiating with subcontractors and material suppliers for construction project close-out, filing of mechanics' liens claims in Pennsylvania and other states, and civil litigation arising out of environmental construction work in connection with underground storage tanks. Mr. Luciana also regularly serves as an arbitrator in AAA arbitrations.

Environmental litigation experience includes private party and government "CERCLA" actions, underground and above-ground storage tank enforcement and cost recovery actions and defense of hazardous waste permit appeals, air and water enforcement actions and PCB and petroleum toxic tort suits.

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Mr. Luciana has served as counsel on the following Appellate Cases:

- *Assicurazioni Generali S.P.A. v. Black & Veatch Corporation*, 362 F.3d 1108 (8th Cir. 2004)
- *Leon Sloan, Sr. and Jimmie Lee Furby v. Department of Housing & Urban Development, et al.*, 231 F.3d 10 (D.C. Cir 2000)
- *Thomas L. Smith and Dolores Smith v. Pauline Weaver*, 445 Pa. Super. 461, 665 A.2d 1215 (1995)
- *Cheryl Harris v. Kellogg Brown & Root Services, Inc.*, No. 09-2325 (U.S. Court of Appeal for the Third Circuit)

## PROFESSIONAL BACKGROUND

- Partner, Dingess, Foster, Luciana, Davidson and Chleboski LLP, March 2010 - Present
- Partner, K&L Gates, 1995 – February 2010
- Associate, K&L Gates, 1987 - 1995
- Senior Engineer, Westinghouse Electric Corporation, Bettis Atomic Power Laboratory, 1979 - 1986
  - Responsibilities included oversight of construction and startup of advanced uranium fuels processing facility for the Naval nuclear program

## PRESENTATIONS

- “Perspectives on Insurance Coverage for Construction Projects: Lessons Learned from Real Coverage Disputes,” Construction Superconference, Las Vegas, NV (December 2016)
- Insurance Coverage Litigation, LawReviewCle, March 6, 2012
- “The Construction Contracts Program: Understanding and Negotiating the Critical Clauses in the Industry Form Documents, ABA Forum on the Construction Industry,” Pittsburgh, PA (November 3, 2011)
- “The Legacy of John Adams - America’s First Lawyer President,” PPA 2011 Law Day, Pittsburgh, PA (August 4, 2011)
- “Two Important Topics in Construction Cases: Dealing With Experts and the Best Practices in Electronic Document Review and Production,” Construction Law Section, Allegheny County Bar Association, Pittsburgh, PA (April 29, 2009)
- “Settling Complex Claims While Avoiding Bad Faith Liability, California Coverage Dreaming on a Winter’s Day,” 17<sup>th</sup> Annual TIPS Insurance Coverage Litigation Committee Midyear Program, Los Angeles, CA (February 26-28, 2009)
- “Insurance Coverage for Loss and Claims on Construction Projects,” International Construction Superconference, London, England (May 19, 2005)
- “Owner Strategies for Dealing with the Financially Troubled Contractor,” Construction Superconference, San Francisco, CA (December 2004)
- “Pennsylvania Bond and Lien Law,” continuing legal education programs in Harrisburg and Pittsburgh, PA (1999 and 2000)

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## **PUBLICATIONS**

- “Trial Courts Split on CGL Coverage for Property Damage Arising from the Defective Work of a Subcontractor,” *CONSTRUCTION LAW AND BUSINESS* (July/August 2001)
- “First Decision of Its Kind Regarding Suspension of Government Contractors,” *THE PROCUREMENT LAWYER* (Fall 2000)
- “The California Supreme Court Rejects Tort Liability of a Performance Bond Surety,” *CONSTRUCTION LAW AND BUSINESS* (Spring 2000)
- “Insurance Coverage for Defective Workmanship Claims,” *CONSTRUCTION LAW AND BUSINESS* (Winter 2000)

## **PROFESSIONAL/CIVIC ACTIVITIES**

- Allegheny County Bar Association, Construction Law Section - President (2008-2009), Vice-President (2007-2008), Secretary (2006-2007), Treasurer (2005-2006)
- ACBA Services, Inc., Construction Dispute Resolution Group, Panel Member
- American Bar Association, Construction Litigation Committee
- American Bar Association, Construction Subcommittee of the Insurance Coverage Litigation Committee - Co-chair
- Pennsylvania Bar Association
- Applied Training Resources - Board of Directors
- Construction Industry Arbitrator, American Arbitration Association
- North Side Christian Health Center - President, Board of Directors (2000-2009); Board Member (1996-2000)
- Christian Legal Aid of Pittsburgh, Board of Directors (2014-2016)
- Youth Opportunities Unlimited, Pittsburgh, Pa., Board Member
- Riverview Athletic Association, Board of Directors - President (2006-2008), Vice-President (2005-2006), Board Member (2003-2005)
- Borough of Oakmont, Zoning Hearing Board (2012-2020)
- Christian Immigration Advocacy Center, Board of Directors (2019-2020)
- Christian Legal Aid of Pittsburgh, Board of Directors (2016-2020)

## **COURT ADMISSIONS**

- Supreme Court of Pennsylvania
- Supreme Court of Texas
- United States Supreme Court
- United States Court of Appeals for the Third Circuit
- United States Court of Appeals for the District of Columbia
- United States Court of Appeals for the Fifth Circuit
- United States Court of Appeals for the Eighth Circuit
- United States Court of Appeals for the Federal Circuit
- United States District Court for the Western District of Pennsylvania
- United States District Court for the Eastern District of Pennsylvania
- United States District Court of the Southern District of Texas
- *Pro Hac Vice* admission to state and federal courts throughout the United States,

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including New York, California, Louisiana, West Virginia, Georgia, Missouri, Minnesota, New Jersey, Texas, Colorado, Washington, Ohio

**BAR MEMBERSHIP**

Pennsylvania  
Texas

**EDUCATION**

J.D., Duquesne University School of Law, 1987 (Executive Comment Editor, DUQUESNE UNIVERSITY LAW REVIEW)

M.S. (Chemical Engineering), Carnegie Mellon University, 1979

B.S. (Chemistry), University of Pittsburgh, 1976

**HONORS**

PENNSYLVANIA SUPER LAWYERS (2004, 2009-2021), BEST LAWYERS (2010-2021), PITTSBURGH'S BEST LAWYERS (2010), PENNSYLVANIA SUPER LAWYERS, Corporate Counsel Edition (2010); Martindale-Hubbell A-V Preeminent

Riverview Distinguished Alumni, 2010, Riverview School District ([www.rsd.k12.pa.us](http://www.rsd.k12.pa.us))

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## REPRESENTATIVE ENGAGEMENTS

- Lead counsel in *Assicurazioni Generali S.P.A., et al. v. Black & Veatch Corporation, et al.*, in the United States District Court for the Western District of Missouri. Mr. Luciana represented the owner of an 800 megawatt combined cycle power plant, MEP Pleasant Hill LLC ("MEP"). The lawsuit was an action brought by London market insurers under an ocean marine cargo policy. The London market insurers sought a declaration of no coverage for consequential loss (delay in start up) arising from power plant equipment that was damaged during ocean shipment. The London market insurers claimed that there was no coverage because MEP's contractor breached a pre-shipment survey warranty. MEP filed a counterclaim seeking \$6 million of damages and asserting that the ocean marine cargo insurance was unambiguous and did not require a pre-shipment survey. The trial court agreed and granted partial summary judgment on liability in favor of MEP on the counterclaim. The Eighth Circuit Court of Appeals affirmed in *Assicurazioni Generali S.P.A., et al. v. Black & Veatch Corp., et al.*, 362 F.3d 1108 (811 Cir. 2004). As a result, the London market insurers paid MEP's entire \$6 million claim.
- Lead counsel for Plaintiff in *Texas Eastern Transmission Corporation v. J.L. Allen Co., et al.*, in the Court of Common Pleas of Franklin County, Pennsylvania. In this case, Mr. Luciana represented the owner of a natural gas pipeline compressor facility that suffered extensive damage due to a high voltage electrical fire following a construction project. In the lawsuit, the owner asserted claims against the general contractor and electrical subcontractor for alleged improper termination of a high voltage connection that subsequently failed and caused a fire. The general contractor and subcontractor denied the claim on the grounds that they were not responsible for the work, the work in question was not the cause of the fire and the owner had allegedly caused or contributed to the cause of the fire. Following a jury trial, the court entered a judgment in the amount of \$1,039,588.96 in favor of the owner and against the electrical subcontractor for negligence (100%) and the general contractor for breach of contract. The trial court's judgment was affirmed on appeal and the defendants paid the entire amount of the owner's claim plus post-judgment interest.
- Lead counsel for Plaintiffs in *Jamaica Broilers Group Limited, et al. v. Equitable Resources, Inc., et al.*, Case No. 03-1550, in the United States District Court for the Western District of Pennsylvania. In this lawsuit, Mr. Luciana represented the owner of a large chicken processing plant in Jamaica. The owner asserted both contract and tort claims against various defendants arising from the failure of an electric and steam cogeneration project. The parties reached a settlement in principle on terms favorable to the owner.
- Lead counsel for a project manager in two related construction insurance coverage cases in the United States District Court for the Western District of Pennsylvania -

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*Kvaerner U.S. Inc. v. Liberty Mutual Insurance Co., et al.*, Case No. 01-0780 and *Blaine Construction Corporation v. IPSCO Construction, Inc., et al.*, Case No. 01440. In these cases, the project manager was seeking insurance coverage under a professional liability policy for professional claims asserted against it arising from the construction of a new steel mill in Alabama. As a result of these lawsuits, the project manager achieved a policy limit settlement from the two professional insurers that paid costs of both defense and indemnity in the total amount of \$43 million. The project manager also settled with excess and professional insurers for costs in excess of the primary policies.

- Lead counsel in *John J. Gulisek Construction Company v. Douglass Pile Company, Inc., et al.*, in the Court of Common Pleas of Allegheny County. In this case, Mr. Luciana represented a piling subcontractor in defending against a claim for damage to a construction project arising from an alleged piling failure. Mr. Luciana also represented the piling subcontractor in a claim for defense and indemnity against its commercial general liability insurer. Following entry of a summary judgment in favor of the piling subcontractor and against its insurer, the insurer agreed to pay all costs of defense, agreed to make the payment necessary to settle the plaintiff's claim against the piling subcontractor and agreed to pay the costs incurred by the piling subcontractor in repairing the alleged damage to the construction project.
- Counsel to the Massachusetts Turnpike Authority in construction insurance coverage matters under all-risk bridge and tunnel, general liability and excess general liability insurance policies arising from a concrete ceiling accident that occurred on July 10, 2006 in connection with the Central Artery/Tunnel Project in Boston, Massachusetts.
- Counsel for Massachusetts Turnpike Authority in *Commonwealth of Massachusetts, et al. v. Bechtel Corporation, et al.*, in the Superior Court Department, Commonwealth of Massachusetts, a lawsuit seeking recovery from responsible parties of damages arising from the July 10, 2006 concrete ceiling accident in the Central Artery/Tunnel Project in Boston, Massachusetts.
- Lead counsel for battlefield contractor in *Harris v. Kellogg Brown & Root Services, Inc.*, Civil No. 2:08-cv-00563, in the United States District Court for the Western District of Pennsylvania, in which plaintiff is asserting wrongful death claims arising from an accidental electrocution of a soldier in Iraq.
- Lead counsel for battlefield contractor in *Bootay v. KBR, Inc.*, Civil No. 2:09-cv-01241, in the United States District Court for the Western District of Pennsylvania, in which plaintiff is asserting a toxic tort claim arising from alleged exposure to sodium dichromate at the Qarmat Ali facility in Iraq. The lawsuit against the battlefield contractor was dismissed by the trial court. The Third Circuit Court of Appeals affirmed the dismissal on appeal.

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- Lead counsel for policyholder in *Aker P&C US Inc. v. National Union Fire Insurance Company of Pittsburgh, Pa.*, in the Supreme Court, New York County, Index No. 109661/09, a lawsuit arising from claims for reimbursement of general liability and workmen's compensation payments in connection with an insurance program for an international engineering and construction contractor. The lawsuit was settled on terms favorable to the policyholder in 2011.
  - Lead counsel for project manager in *Layton Construction Co., Inc. v. Barclays Capital Real Estate, Inc., et al.*, Case No. 2009CV606, in the District Court, County of Eagle, Colorado, defending alleged construction defect and other claims arising from the construction of a Four Seasons Hotel, residences and fractional units in Vail, Colorado. Claims against the project manager were dismissed by the trial court in 2011.
  - Lead counsel for policyholder in *Aker Kvaerner/IHI v. National Union Fire Insurance Company of Louisiana*, Case No. 2:10-cv-00278, in the United States District Court for the Western District of Louisiana, for a claim for coverage under a construction all-risk insurance policy for damage caused by Hurricane Ike to a construction project for a liquefied natural gas facility in Cameron Parish, Louisiana.
  - Lead counsel for policyholder in *Ownbey, et al. v. Aker Kvaerner Industrial Constructors, et al.*, Case No. 2:07-cv-02190, in the United State District Court for the District of New Jersey, for a claim for additional insured coverage and contractual indemnification arising from a scaffolding accident on a construction project at a pharmaceutical plant in New Jersey. The court entered summary judgment in favor of the policyholder holding that one of the insurers owed indemnity.
  - Counsel for international oil field services contractor in connection with a lawsuit in the Court of Commerce, Nanterre, France arising from damage to a 747 caused by cargo during a flight from Africa.