



Bruce W. Ficken

Chair, Construction Law

Philadelphia

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Practice Areas

- Construction Law
- Commercial Litigation

Industry Sectors

- Real Estate & Construction
- Higher Education

Education

- Dickinson School of Law, J.D., *magna cum laude*, 1976
- Susquehanna University, B.A., 1970

Bar Admissions

- Pennsylvania

Affiliations

- The Whitemarsh Foundation- Board Member
- Legacy Youth Tennis and Education- Board Member
- Susquehanna University- Board Member

Awards & Honors

- *Chambers USA* for Construction Law 2014-2019
- 2017 Philadelphia Construction Law "Lawyer of the Year" by Best Lawyers
- Best Lawyers in America, 2006-2019
- "Leading Lawyer" for Construction *The Legal 500* 2016-2018
- Pennsylvania Super Lawyer 2004-2019
- Fellow in the American College of Trial Lawyers
- Who's Who Legal Construction: Lawyers

Bruce chairs the firm's Construction Law Group and is a recognized authority in representing clients in construction and commercial litigation, as well as managing risk in construction projects. As lead counsel he has successfully conducted more than 60 major trials in the United States and in international arbitrations. He has also helped numerous owners and developers with contract documentation, contract and project administration, and dispute avoidance and resolution. Bruce is an arbitrator for the American Arbitration Association and as a mediator he has successfully helped resolve major construction disputes.

Bruce is one of only a few construction litigators ever to be invited to be a Fellow of the American College of Trial Lawyers, and he was named by *Best Lawyers* as the 2017 Philadelphia Construction "Lawyer of the Year." *Chambers USA: America's Leading Lawyers for Business* ranks Bruce in Band 1 for construction law. *Chambers* reports clients saying he is "great in front of a jury" and "as good as they get."

For several years, Bruce has served as co-chairman of the Construction SuperConference, held annually as one of the leading conferences in his field. He frequently lectures at the invitation of various professional groups. He has presented at events sponsored by the Pennsylvania Bar Association, Philadelphia Bar Association, Federal Publications, the Contract Specification Institute, the School of Engineering of the University of Wisconsin, the American Arbitration Association (AAA), and the Practising Law Institute.

He is co-editor and co-author of *Construction Litigation*, (Editions I and II) published by the Practising Law Institute, and *Hazardous Waste Disposal and Underground Construction Law*, published by John Wiley & Sons, Inc. He is a contributing author for the *Construction Law Handbook* (Aspen Publications) and *Moisture Control in Buildings* (ASTM Publications).

Bruce received his bachelor's degree from Susquehanna University and earned his law degree, *magna cum laude*, from Dickinson School of Law. While in law school, he was the managing editor of *Dickinson Law Review*.

Experience

Served as lead counsel

- Secured a significant victory in the Commonwealth Court of Pennsylvania on behalf of Allan Myers, LP, a non-union construction company that filed a bid protest with the Pennsylvania Department of Transportation (PennDOT) challenging a provision in a project solicitation requiring that all contractors execute a Project Labor Agreement (PLA) with local unions, hire labor through local unions, and be bound by the unions' collective bargaining agreements. PennDOT dismissed the bid protest, and we successfully appealed that decision, with the Commonwealth Court unanimously holding that the PLA violated Pennsylvania's competitive bidding laws and setting a new standard for the use of PLAs. This is the first case in which a Pennsylvania court has not upheld a PLA.
- Representation of the private developer for the rebuilding of the World Trade Center towers following the 9/11 attacks, including two expedited arbitrations, one of which resulted in an award of more

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than \$100 million and the other which resulted in a settlement which resolved a four-year feud between the client and the Port Authority of New York and New Jersey.

- Representation of a natural gas transmission pipeline contractor in prosecuting a claim for contract balances and wrongful termination damages. Following a four week jury trial, verdict was rendered dismissing a \$21 million counterclaim, awarding the full amount of both claims in excess of \$23 million, plus statutory interest at a rate of 24 percent per annum, plus attorneys' fees.
- Defense of the concrete contractor and related insurance companies in connection with the tragic collapse of the Tropicana parking garage in Atlantic City, both in OSHA proceedings and in extensive multi-party litigation in state court. Following mediation all matters were settled.
- Representation of an owner of a \$400 million coke manufacturing facility in Indiana Harbor, Indiana. The owner was sued by a well-known international engineering/construction firm for more than \$60 million, for delay, excess dewatering, and contract balances. Following a lengthy arbitration and litigation, all claims by the contractor were dismissed, the owner was permitted to retain \$18 million of contract balances and, following post-trial mediation, the contractor agreed to pay an additional \$10 million.
- Representation of a general contractor in connection with a \$700 million elevated rail program for a public authority in a major urban city, following the contractor's wrongful termination. Settled for significant compensation to the general contractor and the public authority abandoning all counterclaims following mediation.
- Prosecution of claims and defense of \$50 million counterclaim on behalf of a major Chicago general contractor and six subcontractors arising out of the condominium conversion and upgrade of the historic Palmolive Building in downtown Chicago. Arbitration resulted in the dismissal of the developer counterclaim, a near full award, and the award of costs and attorneys' fees to the general contractor.
- Prosecution of claims and defense of significant counterclaim on behalf of the electrical subcontractor for the Lincoln Financial Field in Philadelphia. Arbitration resulted in dismissal of the general contractor's counterclaim, a substantial award of damages, plus attorneys' fees to the subcontractor.
- Prosecution of claims and defense of significant counterclaim on behalf of the concrete subcontractor consortium for Citizens Bank Park in Philadelphia. Arbitration resulted in dismissal of the counterclaim of the general contractor and a substantial award for damages plus attorneys' fees to the consortium.
- Defense of an architectural firm sued for pervasive mold and mildew contamination of a 16-story hotel. Claim against architect dismissed and architecture fees awarded following arbitration.
- Defense of claims for \$24 million arising out of the design, demolition and reconstruction of a sulfuric acid regeneration facility in Dominquez, Calif. Settled at mediation.
- Defense and prosecution of claims totaling \$43 million on behalf of a major oil refining company, arising out of the construction of an environmental remediation and mile-long conveyance project in Pennsylvania. Settled following mediation.
- Defense of fill producer from claims on more than 20 commercial and retail sites in and around Richmond, Virginia, for differential structural settlements allegedly caused by expanding coal-ash fill. Settled for a fraction of exposure predicted by insurance carriers.

- Class action defense of a national distributor of home heating oil sued by a class of 35,000 purchasers of alleged defective home heating units, alleging RICO violations and consumer fraud. Settled.
- Defense of a major residential developer in a suit by a class of 40,000 homeowners for deterioration of fire-retardant plywood. Settled.

Served as lead counsel on international disputes

- Presenting and defending claims on behalf of the prime design/builders arising out of the design and construction of U.S. Government Mission, in Taipei, Taiwan. This was a dispute between an American design builder and a Taiwanese partnership, accused of abandoning the work and delaying the job. Following a lengthy claims international arbitration all issues of liability were resolved in favor of the prime contractor, after which the matter was settled.
- Defense of a developer against a contractor's claims in excess of \$20,000,000 arising out of an EPC power plant construction project in Cali, Columbia. All claims were dismissed following trial before ICC arbitrators.
- Defense of a Venezuelan public/private consortium sued for \$600 million by a major American contractor. In the midst of lengthy ICC proceedings, the matter was settled for a fraction of the claimed costs.
- Defense of an energy developer building a transcontinental pipeline in Mexico. Following proceedings in Mexico City, the matter was settled.
- Defense of a major equipment manufacturer before the Korean Arbitration Association in Seoul, Korea. All claims were dismissed following arbitration proceedings.

Served as lead counsel for owners and developers

- Long-term contract advice to the contractor for the two largest building projects in the history of Philadelphia.
- Long-term project administration advice for development and construction of post 9/11 World Trade Center towers.
- Contract administration advice and dispute resolution oversight for the \$350 million renovation of an operating steel mill.
- Consulting with a major international chemical and pharmaceutical manufacturer to devise a uniform system of contract administration for worldwide contracting.
- Contract documentation, contract administration and dispute resolution services for a \$130 million environmental remediation project for a major oil company.
- Contract documentation and administration services for construction of a six million square foot automobile manufacturing facility.
- Project documentation and administrative services for numerous colleges and universities.