



Fred Warren Jacoby

Vice Chairman

Philadelphia

fjacoby@cozen.com | (215) 665-2154

Practice Areas

- Commercial Litigation
- Construction Law
- Insurance Corporate & Regulatory
- Litigation

Industry Sectors

- Gaming
- Higher Education
- Real Estate & Construction

Education

- Dickinson School of Law, J.D., *cum laude*, 1971
- University of Pennsylvania The Wharton School, B.S.E., 1965

Bar Admissions

- New York
- Pennsylvania

Court Admissions

- Pennsylvania Supreme Court
- U.S. Court of Appeals for the Third Circuit
- U.S. District Court -- Eastern District of Pennsylvania
- U.S. Court of Appeals for the First Circuit
- New York Supreme Court

Affiliations

- American Bar Association
- American Trial Lawyers Association
- New York City Bar Association
- Pennsylvania Bar Association
- Philadelphia Bar Association

Awards & Honors

- Best Lawyers in America 2006-2019
- Super Lawyer by Law & Politics 2004-2019
- Chambers & Partners USA 2014-2018
- Top Rated AV Preeminent Lawyer, Martindale-Hubbell

Fred Warren Jacoby is a commercial litigator with an emphasis on construction law. Fred has notably diverse experience and is a sought-after advocate and adviser who serves companies in the construction, real estate, and financial services industries. He represents clients in their most significant commercial litigation and regularly provides strategic counsel on operations and contracts to help clients avoid potential disputes. He is also a vice chairman of the firm and a member of the Advisory Committee that counsels the firm's board of directors and management committee.

As senior adviser to the Construction Law practice, Fred represents owners, contractors, and construction managers in economic disputes with stakes ranging from several million to several hundred million dollars. He has experience handling large construction failures, OSHA compliance, bid protests, public construction contracts, delay claims, contract disputes, and many other construction-related issues.

On the financial services side, in addition to litigation matters, Fred represents insurers, insured parties, broker-dealers, and other registered representatives in the development and distribution of financial services products, with particular emphasis on property and casualty insurance and the life settlement market.

Fred also advises brokers, consultants, and business and private clients regarding their formation and use of captive insurance companies. This includes not only from a regulatory standpoint in working with the insurance departments of proposed domiciles of these companies and developing feasibility studies but also in the development and implementation of a business plan to include both regulatory, actuarial, tax and other disciplines. Among the clients for whom Fred has worked in establishing captive insurance companies are Toll Brothers and Crownway (formerly Crown Cork and Seal). Fred also serves as a consultant for clients, brokers, and others in their initial consideration and analysis of the applicability and desirability of captive insurance companies for their particular situations.

Chambers USA recognized Fred as a Band 1 "Notable Practitioner" in Construction Litigation in 2014 to present. Fred is consistently recognized by his peers as a "Best Lawyer" and "Super Lawyer" in his respective practice areas. In 2015, The Best Lawyers in America® named him a 2016 Lawyer of the Year® for Construction Litigation, and he has been recognized as a "Best Lawyer" from 2006 to 2018 and a "Super Lawyer" from 2004 to 2018. Fred is an active member of a number of professional associations, including the American, Pennsylvania, New York, and Philadelphia bar associations; the American Association for Justice; the Life Insurance Settlement Association; and the Society of Financial Service Professionals.

Fred received his undergraduate degree from the Wharton School of the University of Pennsylvania. Before attending law school, he served as an officer in the U.S. Army, including in Vietnam. He earned his law degree, *cum laude*, from the Dickinson School of Law, where he was an editor of the Dickinson Law Review.

Experience

Defended construction manager in connection with the catastrophic Tropicana Garage collapse, both

Fred Warren Jacoby

fjacoby@cozen.com

P: (215) 665-2154 | F: (215) 701-2154 | M: (215) 219-4585

©2019 Cozen O'Connor. All rights reserved.



in OSHA proceedings and in extensive multi-party litigation in state court involving in excess of \$200 million in claims. Following mediation, all matters were settled.

Represented developer in US Court of Claims proceeding involving a lease with the General Service Administration (GSA) for a courthouse. Established that GSA had acted improperly in the negotiation of the lease and matter settled, with lease being modified.

Represented construction manager in connection with millions of dollars of claims among the owner, the construction manager and other parties on the project involving The Walk, in Atlantic City. Case settled before trial.

Represented the construction manager/co-developer in connection with multi-million dollar dispute involving the Heldrich Plaza-Garage in New Brunswick, NJ, with a recovery by the construction manager/co-developer.

Represented a Southeastern Pennsylvania township in claims against construction manager, architect and general contractor relating to the design and construction of the township's municipal services building, with a recovery of in excess of \$3,500,000.

Represented one of the sureties that issued gas forward bonds in connection with the Enron litigation commenced by JP Morgan Chase seeking in excess of \$1 billion from numerous sureties. After a one-month trial in the United States District Court for the Southern District of New York, the case settled.

Represented a surety in its efforts to enjoin a Midwest utility company from liquidating and distributing its assets in order to avoid having to fund gas forward commitments issued by it that were bonded by the surety. After a hearing, the Court enjoined the liquidations and distributions and the surety recovered its entire claims against the utility's collateral.

Defended the owner of an apartment complex against claims in excess of \$1.5 million by its contractor for payment for facade improvements at the project. During discovery and following several rounds of mediation, the matter settled.

Defended a developer against claims by its contractor arising from a dispute between the parties as to the termination of the parties' agreement. After a six week bench trial, and post-trial hearings, and appellate review, the Court awarded the developer in excess of \$4 million in punitive damages as the result of the contractor's fraudulent conduct.

Represented developer in proceedings initiated by an activist group seeking to delay and enjoin the construction of a significant multi-million dollar development project. After hearings before the Commonwealth Court, and appeals, the Court refused to enjoin the project.

Represent an international industrial gases company in the negotiation of contracts for substantial projects relating to the construction of gas and process management plants, and the negotiation and litigation of claims and disputes regarding their construction and operation.

Represent public and private companies in proceedings involving OSHA, including in connection with a fire at an oil refinery in western Pennsylvania, and in construction and other casualties and disputes. In every instance, the client has been able to avoid litigation with OSHA involving the casualties.

Advised condominium developer regarding its rights and obligations under the Federal Fair Housing Act as the result of its request for a proposed modification to the Municipal Building Code.

Fred Warren Jacoby

fjacoby@cozen.com

P: (215) 665-2154 | F: (215) 701-2154 | M: (215) 219-4585

©2019 Cozen O'Connor. All rights reserved.

