



BABST | CALLAND | CLEMENTS | ZOMNIR  
A PROFESSIONAL CORPORATION



## LITIGATION EXPERIENCE

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### BUSINESS

Handled a series of civil litigations and regulatory proceedings relating to deregulation of Pennsylvania's electric energy market and utilities' participation in PURPA projects on behalf of a large industrial user.

Defended against claims of liability asserted against a reinsurance company by the primary insureds and beneficiaries of an employee medical benefits policy.

Defended a majority shareholder and a corporation in an action brought by minority shareholder who sought to acquire control of the business.

Preserved business and its assets for our client through settlement of a lawsuit brought by an alleged partner who sought dissolution of the business.

Achieved a favorable settlement on behalf of United Kingdom centrifuge manufacturer in an action brought by coal processor for damage caused by plant failure.

Obtained a preliminary injunction against a former employee and his new employer barring use of trade secret information and requiring the return of the documents to our client.

Handled restrictive covenant/trade secret preliminary injunction cases on behalf of corporations and individuals in state and federal courts.

Represented companies and individuals in various closely held shareholder and partnership litigation matters.

Prosecuted lengthy and complex shareholders' dispute litigation and favorably resolved the conflict by forcing a buy-out of the client's shares.

Obtained a multi-million dollar settlement in a fraud/misrepresentation case resulting from the acquisition of a business; the settlement amount actually exceeded the damage claim raised by our client's damage expert. This fast-paced litigation had 4 different lawsuits and included successfully obtaining injunctive relief and successfully preventing injunctive relief requested by our adversary.

## LITIGATION EXPERIENCE continued

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Convinced a federal court to freeze the proceeds of the sale of a business due to fraudulent representations during negotiations of the sale.

Obtained a special injunction against client's employee, which prevented the employee from working for a competitor.

Initiated injunction proceedings, which resulted in adversary agreeing that a covenant not to compete would be enforced with limited exceptions.

Obtained a favorable settlement for client in an asbestos abatement construction dispute in the middle of trial after adversaries' theories were shown not to be supported by witness testimony.

Guided client through hiring of almost entire office of a competitor and resulting litigation.

Obtained relief from automatic stay in bankruptcy to permit the recovery of clients' property.

Developed creative summary judgment theory for defendant-client that resulted in a significant reduction in plaintiff's settlement demand and favorably resolved the federal court litigation.

Represented several financial institutions in class action securities fraud claims and obtained dismissal of both a complaint and amended complaint, which dismissal was confirmed by the U.S. Court of Appeals for the Third Circuit.

Defended an advertising company from claims brought under the Lanham Act for trademark infringement as well as defamation claims.

Defended a major hospital in bankruptcy court on claims filed against it arising out of the largest municipal bond fraud case in Pennsylvania.

Handled and successfully settled claims against a national cable television operator arising out of its acquisition of certain systems in Maryland and Eastern Pennsylvania.

Represented a client in multiple adversary proceedings in bankruptcy court arising out of a complicated series of financial transactions which also resulted in the defense of four state court actions filed by the client's former attorney.

Represented a client at trial in U.S. Bankruptcy Court for the Eastern District of Ohio in which we established the debtor's fraud so as to avoid discharge of the client's debt.

Defended a securities dealer in a lengthy, complex securities arbitration involving multi-state fraud by a chief broker.

## LITIGATION EXPERIENCE continued

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Represented insurance companies in breach of insurance contract/premium cases through successful appeal to the Third Court.

Achieved summary judgment for a hospital on intentional interference with contract and fraud claims.

Secured multiple injunctions for a landowner in a boundary dispute.

Represented corporation in mandamus actions for corporate records by disgruntled shareholder.

Obtained summary judgment for ambulance company against competitor alleging fraud.

## ENVIRONMENTAL

Managed and litigated environmental insurance claims for the scrap metals and manufacturing industries.

Litigated and settled (with no liability or payment by the defendants) an environmental litigation brought against two former officers and directors.

Litigated a series of claims against the government for contribution to environmental response costs at a series of sites connected with defense efforts or with the United States' nuclear program.

Handled the complex proceedings related to the permitting of a limestone quarry which included longest trial ever conducted before the Environmental Hearing Board.

Handled a series of toxic tort cases relating to alleged exposure to pesticides.

Handled a toxic tort matter relating to birth defects allegedly caused by exposure to TCE in the groundwater.

Handled an environmental cost recovery action centering on parent-subsidary liability.

Resolved a dispute involving a landlord's liability for asbestos cleanup costs in commercial building.

Obtained a multi-year extension of an environmental regulatory deadline in the Pennsylvania Commonwealth Court by way of an emergency equitable injunction procedure. Without the extension of the deadline, our client would have forfeited several million dollars and several years of time invested in the effort to permit, construct and operate a solid waste landfill.

## LITIGATION EXPERIENCE *continued*

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Defended against claims brought in federal court under CERCLA and RCRA seeking indemnity for significant environmental response costs associated with the cleanup of a former coke and chemical plant site. While our client was a former owner and operator of the site, the controlling contracts at issue were found by the U.S. Sixth Circuit Court of Appeals to be insufficient to transfer liability for the response costs attributable to the operation of the site by a previous long-term owner.

Settled with the insurers of a defunct construction company for claims associated with the construction company's defective design and installation of a gasoline storage and delivery system. The settlement was achieved despite the presence of "pollution exclusion" language in the insurance policies at issue.

Settled, on the eve of filing an injunction action, a dispute involving an industrial tenant's rights to perform non-mandated environmental testing on the leasehold, which had already received a release under the Pennsylvania brownfields statute.

Defended and favorably settled, on a *de minimis* basis, claims by the federal government for environmental response costs associated with a highly contaminated former mercury-refining site.

Obtained a favorable settlement for a former owner and operator in a complex CERCLA private cost recovery action. Took the lead among approximately 10 defendants.

Successfully convinced the Pennsylvania Underground Storage Tank fund to defend and reimburse client for a significant percentage of client's past and future litigation expenses and liability.

Represented defendant in underground storage tank suit that resulted in developing important case law in Pennsylvania state and federal courts.

Defended a major manufacturing client against CERCLA and state law claims for cleanup costs at a former manufacturing building and property in New Jersey. Obtained summary judgment under New Jersey's Environmental Cleanup Responsibility Act in one of the first reported decisions under that Act and the first decision to establish the statute of limitations applicable under that Act.

## CONSTRUCTION

Achieved a defense verdict for an owner in a claim filed by a painting contractor.

Obtained summary judgment before the Pennsylvania Board of Claims establishing the right to payments of claims made in conjunction with a university construction project performed by our client for the Pennsylvania Department of General Services. As a result of the summary judgment, our client not only received payment for the claims at

## LITIGATION EXPERIENCE continued

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issue, but also was able to negotiate a favorable settlement with the Commonwealth for claims made on a separate project involving similar issues.

Litigated to a favorable settlement a dispute involving a utility client being overcharged for several years for equipment and labor by a construction contractor.

Litigated to a favorable settlement breach of contract claims involving the defective design and aborted installation of an integrated power control system for an electric utility.

Defended against and favorably settled claims associated with Davis-Bacon Act claims related to a federal construction project.

Obtained nearly 100% of damage claim for general contractor client from sub-contractor and surety in a construction dispute.

Represented a real estate developer in the longest administrative hearing in the history of the Pennsylvania Department of Transportation regarding access to a state highway for purposes of development of a regional mall and commercial center. Successfully defended the client against claims of a competing developer.

Represented major regional construction company in prosecuting claims against a multinational oil company and construction engineering firm arising out of a construction and environmental remediation project at oil refinery in Philadelphia. The case resulted in a four-week arbitration hearing in Philadelphia after which the claims were settled resulting in a multimillion-dollar recovery for the client.

Represented the largest manufacturer of longwall roof support systems in the world in a multimillion-dollar commercial dispute pending in Utah arising out of failure of the longwall system due to corrosion.

Tried a one-week case in front of the Pennsylvania Board of Claims on behalf of a general contractor against PennDOT; secured a favorable decision.

Tried a one-week bench trial and received a defense verdict in defending a general contractor against an engineer's claim regarding a value engineering proposal.

Tried a preliminary injunction bid dispute case on behalf of a contractor against a school district; prevailed after an emergency appeal to the Commonwealth Court.

Defended a bid dispute action filed by a disgruntled bidder on behalf of a contractor that was awarded a contract by PennDOT.

Represented a prime contractor in presenting delay and inefficiency claims against public owners.

## LITIGATION EXPERIENCE continued

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Represented a public owner in prosecuting an architectural errors and omissions claim.

Defended an owner against a mechanic's lien claim filed by a brick supplier.

Extensive experience reviewing contracts from litigation-exposure perspective.

Extensive experience consulting clients regarding the impact of various construction law issues on daily business decisions.

## PRODUCTS LIABILITY

Defended a manufacturer of latex gloves in multiple civil actions for latex exposure over a 6-year period resulting in payment of nominal settlements.

Defended manufacturers of bone screws in multi-district litigation in 70+ matters in Western Pennsylvania over a 4-year period resulting in winning motions for summary judgment.

Represented manufacturers of vehicles in numerous matters involving allegations of products liability and crashworthiness and involving death, quadriplegia and other severe injuries.

Represented manufacturers of power hand tools, industrial food equipment, compressors and other industrial equipment in numerous matters involving allegations of product liability.

Defended food products company in deleterious food claims and defective packaging claims.

Obtained summary judgment for laboratory in products liability matter regarding ballistic testing.

Represented manufacturer of fans in litigation regarding a fire that destroyed a shopping center.

Represented manufacturer of gears in economic loss case that resulted in successfully defending the original suit and settling a counterclaim.

Defended manufacturer of locomotive engines in products liability and wrongful death actions.

Represented distributor of pool liner in wrongful death action.

Defended egg farmer in deleterious food claim.

## LITIGATION EXPERIENCE *continued*

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Represented owner of airplane in multiple death airplane crash.

Defended and favorably settled claims that a component part manufacturer was liable for personal injuries resulting from the failure of commercial exercise equipment.

Achieved dismissal of product liability case against client at the onset of the case and before the client incurred substantial discovery or litigation expenses.

## TECHNOLOGY

Defended and favorably settled two related cases involving a former employee's claim of rights to ownership and use of inventions conceived during the period of employment. One case was a rarely seen judicial patent interference proceeding in the federal courts which also involved anti-trust claims, the second was a state court proceeding alleging theft of trade secrets. Our client retained the rights to use the disputed technology to the full extent permitted under the law without payment of any monetary damages.

Persuaded a client's competitor to cease and desist its practice of using the client's trade names in its web site metatags.

Evaluated an energy supply company for legal risks associated with its e-commerce practices.

Obtained punitive damage award from jury for trade secret and restrictive covenant violations on behalf of a high-tech placement firm against a former employee and his new employer.

Obtained summary judgment for large German software company on jurisdictional grounds in a contract action brought by a software design and distribution business.

Defended client in patent infringement lawsuit, which was favorably resolved for the client.

Represented a national medical software company in a breach of contract and fraud action arising out of a sale of the client's subsidiary to another medical software company. The claim also involved allegations of Y2K noncompliance.

Won preliminary injunctions for global health care company in copyright infringement cases in federal courts.

## ALTERNATIVE DISPUTE RESOLUTION

Handled and mediated a \$12 million matter relating to the performance of a power management computer system for an electric utility.

## LITIGATION EXPERIENCE *continued*

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Defended company against an individual's claim of breach of an employment agreement executed during the acquisition of the individual's company resulting in a favorable settlement during arbitration of the matter.

Arranged settlement involving various companies including United Kingdom holding company and subsidiaries of multiple actions filed overseas and in Pennsylvania arising out of shareholder and business disputes in the coal industry.

Obtained a complete defense award in a construction dispute after a hearing before the American Arbitration Association.

Represented a national advertising client in recovering payments for termination of its agreement with a client following that client's merger with a large competitor. The case resulted in a significant monetary award to the client following a week long arbitration hearing in New York.

Represented a national cable television company in arbitration matter pending in Washington, D.C. arising out of a dispute regarding multimillion-dollar purchase price adjustments and escrow adjustments under an acquisition agreement.

## GENERAL

Represented coal owners in property tax assessment appeals, including recently defending the assessed values of approximately 60,000 acres of coal in Greene County, Pennsylvania, after taxing bodies contended that the coalbed methane contained within the coal increased its value.

Handled civil rights actions including a prisoner civil rights action and an action relating to the unconstitutional termination of parental rights.

Defended former chief financial officer of a large non-profit hospital/university system in multiple civil and criminal matters, including an SEC investigation, lawsuits in various federal and bankruptcy courts and participation in a preliminary hearing lasting several months; created and managed a database containing nearly 400,000 records.

Defended natural gas company in a jury trial involving the explosion of a family's residence by successfully establishing that gas line damage caused by a construction contractor was largely to blame for the accident.

Obtained dismissal of propane supplier in wrongful death action brought on behalf of homeowner following explosion.

Achieved judgment following trial in favor of client in a real estate dispute.

## LITIGATION EXPERIENCE continued

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Defended an international cement and aggregates company in a wrongful death proceeding brought against the company under the Longshoremen and Harbor Workers Act.

Handled a series of asbestos claims against a regional utility company based on premises liability theories.

Handled a series of actions relating to media access to hearings, meetings, proceedings, and documents.

Defended a series of defamation actions brought against a television station.

Represented a health care facility in a revocation of privileges proceedings in which the physician was accused of sexual harassment.

Represented citizens in an injunction against a local borough in a First Amendment and Sunshine Act violation matter.

Handled false imprisonment action for a large retailer.

Represented insurance agents in license revocation and suspension proceedings.

Defended a law firm in attorney malpractice matter.

Represented architectural firm in parking lot accident.

Represented physician in bankruptcy proceeding regarding purchase of practice.

Represented a sand and gravel company in maritime actions.

Represented insurance agent in litigation regarding fraud.