



Damian R. LaPlaca

Partner

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Experience

Damian R. LaPlaca has a broad commercial litigation background serving the construction, technology, insurance, software and telecommunications industries.

Damian concentrates his practice in business litigation and corporate matters, including litigation involving architects and engineers, intellectual property, trade secrets, breach of contract, unfair competition, mergers and acquisitions, construction, products liability and telecommunications. He has substantial experience in defending commercial misconduct actions alleging intentional wrongdoing including breach of contract, intentional fraud, misappropriation of trade secrets, and breach of non-competition agreements. Damian has successfully led teams of attorneys in obtaining and defeating temporary restraining orders and preliminary injunctions in emergency matters.

Damian was a member of a litigation team that successfully represented insurance carriers against claims for coverage in a mass tort litigation. He was featured in *The Massachusetts Lawyer's Weekly* for obtaining a jury verdict for damages, and a rare court decision piercing the corporate veil in a contract dispute over a microwave transmission supply contract. He recently won a jury trial in a trade secrets case obtaining a verdict of \$500,000 on behalf of his client. And he successfully defended in the Massachusetts Court of Appeals a summary judgment dismissing a \$13 million multi-party construction litigation.

In addition to his client responsibilities, Damian has been active in the local community. He currently serves on the Board of Directors of the Kelly Packowski MS Foundation, and is a former Member of the Board of Directors of the Neighborhood Association of the Back Bay, and a former Member of the Board of Advisors of the Bentley College Institute of Paralegal Advisors.

Admitted to Practice

- Massachusetts, 1986
- Virginia, 1988
- United States District Court for the District of Massachusetts, 1988
- United States Court of Appeals for the First Circuit, 1989
- Pro Hac Vice: Vermont, Maine, Ohio and Puerto Rico

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(Damian R. LaPlaca, continued)

Education

- Catholic University, Columbus School of Law (J.D., 1986)
 - Staff Member, *Catholic University Law Review*, 1985-86
- Siena College (B.A., 1982, *cum laude*)

Representative Cases/Matters

Insurance and Related Representation:

Represents insurers in professional liability, directors and officers, property and casualty, excess and surplus lines, transportation and life. Significant accomplishments include:

- *Multi-District Litigation/Insurance Coverage*: Participated on a multi-party litigation team that successfully represented a group of insurers against claims for coverage in mass tort litigation in federal court in Puerto Rico.
- *Property and Casualty*: Negotiated a favorable settlement at a small fraction of \$13 million dollar products liability claim brought against a U.K. manufacturer after investigation showed facts tending to doubt truth of claim.
- *Transportation*: Favorably settled actions against insureds of transportation insurer involving the Interstate Commerce Act and/or related cargo damage claims.
- *Excess and Surplus Lines*: Successfully obtained dismissals or favorable settlements in actions seeking indemnity for damages and attorney's fees in construction litigations against various contractors insured by excess and surplus lines insurer.
- *General Liability*: Led a team of defense counsel both in the trial court and on appeal in obtaining dismissal of a \$13 million multi-party construction litigation brought by a 240 unit waterfront condominium.

Other Commercial Litigation:

- *Class Action and Telecommunications*: Negotiated a favorable pre-litigation settlement on behalf of a telecommunications company over a proposed class-action suit alleging violation of consumer protection laws.
- *Software and Intellectual Property*: Defeated a preliminary injunction in Massachusetts trial court sought by software developer to enforce the termination provision in a software license agreement; successfully obtained settlement on counterclaims for deceptive business practices and intentional interference with economic and contractual relations.
- *Employment and Non-Competition*: Conducted an internal investigation of an employment discrimination claim at request of general counsel of a cable company and negotiated a favorable settlement; favorably resolved numerous other employment matters.

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(Damian R. LaPlaca, continued)

- *Injunction and Commercial Transactions:* Participated in a team that obtained a preliminary injunction in federal court in New York against the transfer of certain rights to use telecommunications assets, showing likelihood that the seller materially breached its representations and warranties in a \$10 million asset purchase agreement.
- *Trade Secrets and Intellectual Property:* Successfully resisted U.K. company's demand for discovery, including trade secrets, against national water purifier company in federal court action brought pursuant to federal statute providing for discovery in aid of a foreign litigation.
- *E-Commerce and Contract:* Argued for and obtained dismissal of contract action on behalf of cable channel in action for breach of an uplink agreement on grounds of lack of personal jurisdiction.
- *Mergers and Acquisitions:* Participated in a team that obtained a preliminary injunction against the transfer of certain rights to use telecommunications assets, showing a likelihood that a seller materially breached its representations and warranties in an asset purchase agreement.

Speaking Engagements

Co-presenter at Massachusetts Bar Association Luncheon Roundtable on "The Impact of Social Networking on Employment Law" March 31, 2010.

Speaker at an ACEC Conference in Waltham, MA on "Legal Implications of Use of Social Networking Websites" December 2009.

Speaker at a DRBF NE/ADR Conference in Waltham, MA on "Dispute Resolution Techniques" October 2008.

Speaker at a Boston, MA seminar on "ADR Processes Under the New AIA Documents – Mediation v. Arbitration" October 2008.

Speaker at a Broward County Seminar in Ft. Lauderdale, FL on "Managing Errors & Omissions and Contractor Change Order Disputed on Public Projects" July 2008.

Speaker at the Vinci North American Risk Management Symposium in Philadelphia, PA on "Design Build Professional Liability Issues for Design Professionals" May 2008.

Articles and Publications

Pursuing Legal Defenses at the Outset of Litigation Can Be the Difference Between Winning and Losing, The Design and Construction Management Professional Reporter, October 2007.

Instant Messaging Use Policies, The DH Benchmark, Fall 2007.

An Attorney's Guide to Appellate Practice Before the District of Columbia Court of Appeals, 35 Catholic University Law Review, 1241 (1986)

Additional Information

- Clerkship, United States District Court for the District of Puerto Rico, 1986-1988