



Eric Palombo

Shareholder

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Eric Palombo is a member of the firm's Litigation Department and the Transportation Law Practice. Eric has extensive experience having litigated matters throughout the country. While his practice is diverse, his primary focus is on transportation law and representing clients in matters involving substantial property damage claims and commercial disputes, including significant derailments, freight claim litigation and matters involving damage to transportation infrastructure such as maritime collisions, maritime limitation of liability actions, and architectural, engineering and construction defect cases. His transportation experience covers rail, motor carrier and maritime law as well as claims arising under the Carmack Amendment and the Carriage of Goods by Seas Act.

Eric handles matters through all stages of litigation from the inception of the claim through trial and appeal. Eric has litigated cases in state and federal courts throughout the country including Alabama, Florida, Georgia, California, Connecticut, Illinois, Indiana, Kentucky, Louisiana, North and South Carolina, New Jersey, New York, Maryland, Massachusetts, Michigan, Missouri, Nevada, Ohio, Pennsylvania, Tennessee, Texas, Washington, Virginia and West Virginia. Through the course of his career, Eric has litigated multi-million dollar lawsuits representing corporate plaintiffs and defendants, achieving significant victories including recovering in excess of \$20 million dollars on behalf of his clients and defeating claims ranging in size from the hundreds of thousands to over \$10 million.

In addition to his litigation experience, Palombo assists clients in NTSB and U.S. Coast Guard investigations, in matters before the U.S. Surface Transportation Board, and in U.S. Customs and Border Protection matters associated with regulatory compliance and enforcement actions. He has also drafted carrier tariffs, transportation agreements and provides consultation on a wide variety of transportation and risk related issues. Eric works diligently to achieve the best possible outcome for his clients whether through dispositive motions, trial, appeal or settlement.

Practice Areas

Litigation

Transportation Law

Admissions

Supreme Court of
Pennsylvania

Supreme Court of New
Jersey

U.S. Court of Appeals,
Second Circuit

U.S. Court of Appeals, Third
Circuit

U.S. District Court, Eastern
District of Pennsylvania

U.S. District Court, Middle
District of Pennsylvania

U.S. District Court, District
of Maryland

U.S. District Court, Eastern
District of Missouri

U.S. District Court, District
of New Jersey

U.S. District Court, District
of North Dakota

U.S. District Court,
Northern District of Illinois

U.S. District Court,
Southern District of Indiana

U.S. District Court,
Northern District of Indiana

U.S. District Court, Western
District of Tennessee

Before joining Flaster Greenberg, Eric was a name partner of Cohen & Palombo, a boutique transportation law firm. Eric is a graduate of The Villanova University Law School, *cum laude*, where he was awarded Order of the Coif. After graduating from law school, he completed a one year judicial clerkship for the Honorable Susan Devlin Scott, in the Bucks County Court of Common Pleas.

Education

- Villanova University School of Law, J.D., *cum laude*, Order of the Coif
- West Chester University of Pennsylvania, B.S., *cum laude*

REPRESENTATIVE MATTERS

- ***CSX Transportation, Inc., et al., v. Columbus Downtown Development Corporation, S. District Court for the Southern District of Ohio***, Civil Action No. 2:16-cv-00557, represented the owners of a bridge seeking in excess of \$10 million in damages arising from the Scioto Greenways Project in Columbus, Ohio. The project involved modification to the Scioto River to add greenspace. The bridge spanned the river and began to sink during the course of the project giving rise to a myriad of architecture, engineering and construction defect claims against the project owner and its engineering and construction contractors. The case eventually settled prior to trial.
- ***Sanofi-Aventis U.S., LLC, et. al. v. Great American Lines, Inc., et al.***, 16-3668, 2017 WL 6032465, (3d Cir. Dec. 6, 2017) obtained summary judgment and drafted appellate brief successfully convincing the U.S. Court of Appeals for the Third Circuit to affirm the District Court's award of summary judgment finding that his client was not liable for a \$9 million freight claim arising from the theft of a trailer of pharmaceuticals while in transit based upon the terms and conditions contained within the governing transportation contract.
- ***Icicle Seafoods, Inc., et al. v. BNSF Railway Company, U.S. District Court for the Western District of Washington***, Civil Action No. 2:21-cv-01715-TSZ, secured summary judgment on behalf of rail carrier enforcing \$50,000 limitation of liability in response to a freight claim arising from the alleged damage to frozen fish in excess of \$240,000. In the same decision, Mr. Palombo defeated Plaintiff's motion for summary judgment by successfully arguing that the Plaintiff failed to carry its burden under the Carmack Amendment.
- ***Central Transport, LLC Global Aeroleasing, LLC, et al.***, 2020 WL 7040048; 2020 U.S. Dist. LEXIS 90862, secured summary judgment on behalf of motor carrier limiting its liability to \$3,140.00 in response to a freight claim seeking to recover in excess of \$1 million for alleged damage to commercial airplane landing gear.
- ***CSX Transportation, Inc. v. Steelways, Inc. et al., S. District Court for the Southern District of New York***, Civil Action No. 7:17-cv-06082 represented rail carrier in a significant derailment matter involving millions in property damage when a train derailed after one of the defendants' employees left equipment on active tracks. The matter ultimately settled before reaching trial.

- **CSX Transportation, Inc. v. Pine Bluff Materials Co., LLC, et al., S. District Court for the Middle District of Tennessee**, Civil Action No. 3:17-cv00970, this matter involved a claim in excess of \$1 million for the destruction of a swing span bridge's rest pier. The pier was destroyed when a Pine Bluff vessel attempted to transport too many barges upriver before losing control, striking the pier and destroying it. The defendant moved for summary judgment on the basis that the rest pier was fully depreciated and was not properly maintained. After the issue was fully briefed, the Court denied the motion, which led to a settlement.
- **CSX Transportation, Inc. v. Niagara Lubricant, U.S. District Court for the Western District of New York**, Civil Action No: 1:12-cv-00540, sat as second chair in a five day jury trial involving the recovery of damages arising from environmental remediation and resulting in a substantial jury verdict for his client.
- **CSX Transportation, Inc. v. Port Newark Container Terminal, LLC, et al., U.S. District Court for the District of New Jersey**, 2:13-cv-04434 successfully defeated defendant's motion seeking summary judgment, in which the defendant argued, inter alia, that it was not liable for flood damage to railcars arising from Superstorm Sandy due to an Act of God. The matter proceeded to a bench trial, which resulted in a full judgment in favor of his client.
- **Norfolk Southern Railway Company v. New York Terminals, LLC**, CV 2:14-07664, 2017 WL 4005158, (D.N.J. Sept. 12, 2017), successfully moved for summary judgment on his client's claim for demurrage and hazardous material charges. The District Court enforced the terms of the carrier's tariff holding that the defendant was liable for the demurrage charges and that the railcars contained hazardous materials as a matter of law based upon the shipper's hazardous material designation contained in the bills of lading.
- **Transflo Terminal Services, Inc. v. Brooklyn Res. Recovery, Inc.**, 248 F. Supp. 3d 397 (E.D.N.Y. 2017), successfully moved the District Court to grant summary judgment on his client's breach of contract claim despite the defendant's meritless claim that plaintiff's supporting documentation was fabricated. The matter subsequently settled on appeal.
- **CSX Transp., Inc. v. Auburn Thirty Six, LLC, et al.**, 4:12-CV-1984-JAR, 2014 WL 2480610 (E.D. Mo. June 3, 2014) successful in moving U.S. District Court in Missouri to grant summary judgment on behalf of client in a breach of contract dispute, resulting a judgment in excess of \$900,000 against both the defendant corporation and its principal, as well as dismissal of defendants' counterclaim of misrepresentation.
- **CSX Transp., Inc. v. ABC & D Recycling, Inc.**, A. 11-30268-FDS, 2013 WL 3070770 (D. Mass. June 14, 2013) successful in convincing U.S. District Court in Massachusetts that parties had incorporated additional tariff terms into their transportation contract, which resulted in summary judgment in the amount of \$425,000 on behalf of his client.
- **Pegasus Transp. Grp., Inc. v. CSX Transp., Inc.**, 05-12-00465-CV, 2013 WL 4130899 (Tex. App. Aug. 14, 2013) successful in convincing Texas Court of Appeals to uphold award of summary judgment, despite defendant's attempt to use a sham affidavit to create an issue of fact.
- Assisted client in responding to U. Customs and Border Protection claims for liquidated damages in excess of \$5 million arising from allegations of failing to comply with federal customs regulations.

PROFESSIONAL AFFILIATIONS

- Transportation Lawyers Association
- Association of Transportation Law Professionals
- Villanova Inn of Court

Continued

- *Law 360*'s Transportation Editorial Advisory Board
 - Member, 2024

ARTICLES & ALERTS

The STB's Proposed Rules for Demurrage: Old Problems Solved and New Problems Created

Freight Loss and Damage Claims: Preemption in the Context of Private Transportation Contracts