

# WILENTZ

—ATTORNEYS AT LAW—

WILENTZ, GOLDMAN & SPITZER, P.A.

## Daniel J. Kluska

Shareholder

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### Practices

Business and Commercial  
Litigation

Professional Liability &  
Responsibility Litigation  
Construction Law

### Education

J.D., Washington and Lee  
University School of Law, 2007

B.A., Rutgers University, 2004, Phi  
Beta Kappa

### Clerkships

Honorable Neil H. Shuster,  
Superior Court of New Jersey,  
Chancery Division, General Equity,  
2007-2008

Honorable Maria M. Sypek,  
Superior Court of New Jersey,  
Chancery Division, General Equity,  
2008

### Admissions

New Jersey, 2007

U.S. District Court for the District of  
New Jersey, 2008

U.S. Court of Appeals for the Third  
Circuit, 2012

### Memberships

New Jersey Builders Association,

Daniel J. Kluska is a shareholder on the Business and Commercial Litigation team at Wilentz, Goldman & Spitzer, P.A.

In his construction litigation practice, Mr. Kluska regularly represents owners, builders, developers, and general contractors in transition litigation matters and other lawsuits arising out of the construction of numerous types of projects, including condominium developments, residential communities, and single-family homes, involving claims of alleged construction and design defects, subsurface deficiencies, project-related misrepresentations, building code violations and breaches of the Planned Real Estate Development Full Disclosure Act (PREDFDA) and other express warranties. In 2021, Mr. Kluska was appointed to serve as Construction Counsel to the New Jersey Builders Association, the leading trade association for the construction industry in New Jersey.

Mr. Kluska also counsels and represents motor vehicle dealers, a non-profit advocacy organization serving franchised dealers and automotive industry marketing agencies on legal issues and matters, including requirements under the Franchise Practices Act, violations of the Consumer Fraud Act (CFA), the Truth-in-Consumer Contract, Warranty and Notice Act (TCCWNA) and other consumer protection statutes, and motor vehicle advertising practices.

His business litigation practice extends to the representation of law firms of all sizes in actions involving allegations of legal malpractice, breach of fiduciary duty, civil conspiracy, and fraud. In addition, he represents other businesses and individuals in complex cases litigated in trial and appellate courts and in arbitration, involving legal issues such as contract disputes, professional negligence, CFA claims, trust and estate litigation, real estate disputes, unfair competition, restrictive covenant and trade secrets litigation, shareholder and partner disputes, class action defense and other multifaceted business matters.

Mr. Kluska was named to the “New Leaders of the Bar” list by the New Jersey Law Journal in 2021 and has previously been named to the

Construction Counsel  
New Jersey State Bar Association,  
Construction Law Section  
Middlesex County Bar Association  
American Bar Association  
Association of the Federal Bar of  
New Jersey  
National Association of Dealer  
Counsel

"Rising Stars" list of New Jersey *Super Lawyers* and was selected for inclusion in the 2024 edition of *Best Lawyers in America* for Construction Law. Mr. Kluska was also appointed by the New Jersey Supreme Court to serve on the District Ethics Committee for Middlesex County for a four-year term that commenced in 2021. He also serves as a mediator for the Middlesex County Bar Association Chancery Practice Committee Early Settlement Program.

The New Jersey Law Journal "New Leaders of the Bar" list (<https://www.law.com/njlawjournal/2022/08/11/new-jersey-legal-awards-honorees-announced/>), formerly known as "40 Under 40," is published by ALM Media Properties, LLC.

Super Lawyers® ([http://www.superlawyers.com/about/selection\\_process\\_detail.html](http://www.superlawyers.com/about/selection_process_detail.html)) is published by Thomson Reuters.

Best Lawyers in America® (<https://www.bestlawyers.com/methodology>) is published by Best Lawyers.

A description of the selection processes may be accessed via the above links. The aforementioned organizations are private peer review organizations, not court-specific, public certification vehicles. No aspect of this advertisement has been submitted to or approved by the Supreme Court of New Jersey.

Mr. Kluska is a Rutgers football and men's basketball season ticket holder, avid traveler, and enjoys golfing, running, and reading.

## Selected Matters

Results achieved in prior matters are not meant to be a guarantee of success as the facts and legal circumstances vary from matter to matter.

- Representation of national real estate developer in lawsuits filed by condominium and homeowners' associations after control of the association board transitioned from developer to unit owners.
- Settled multi-million construction defect matter for a developer, not requiring the developer to make any payment, perform any repair work, or otherwise owe any obligation to the association or any other party to the case.
  - Obtained pre-answer dismissal of a legal malpractice action against a law firm filed by the municipality ordered in underlying action to construct hundreds of affordable housing units on grounds that the municipality could not establish proximate causation of any alleged damages after disregarding the law firm's advice.
- Secured dismissal of all claims in the middle of jury trial defending the owner of a car wash sued for unlawfully interfering with the contract between prior owners of the car wash.
- Obtained dismissal of legal malpractice action against national law firm after the plaintiff violated several court orders and failed to serve an expert report.
- Won summary judgment in federal court for an international law firm in legal malpractice action alleging fraud and aiding and

- abetting the client to breach fiduciary obligations to the plaintiff; decision affirmed by Third Circuit Court of Appeals.
- Obtained injunction in federal court for a non-profit alliance of food retailers prohibiting the State of New Jersey from collecting unused gift card funds under newly-enacted legislation in violation of Supreme Court precedent; decision affirmed by Third Circuit Court of Appeals.
  - Obtained summary judgment for a regional law firm in legal malpractice action alleging improper advice to plaintiff based on finding that plaintiff's expert's opinion was an inadmissible net opinion.