

Bill No. 5021-09

## APPOINTMENT

Approving the appointment of Mark F. Nowak to serve as a member of the Human Relations Commission of the County of Allegheny for a term to expire on December 31, 2010.

In Council September 22, 2009.

Read and approved by Motion of Council.



Rich Fitzgerald  
President of Council

Attest:

  
Allegheny County Council

5021-09



DAN ONORATO  
COUNTY EXECUTIVE

# COUNTY OF ALLEGHENY

## OFFICE OF THE COUNTY EXECUTIVE

101 COURTHOUSE • 436 GRANT STREET  
PITTSBURGH, PA 15219  
PHONE (412) 350-6500 • FAX (412) 350-6512  
WWW.ALLEGHENYCOUNTY.US

July 31, 2009

Honorable President and Members  
Allegheny County Council  
119 Courthouse  
436 Grant Street  
Pittsburgh, PA 15219

Dear Council Members:

Please find the attached resume of Mark F. Nowak, whom I am recommending for appointment to the Human Relations Commission of the County of Allegheny.

The purpose of this Commission is to initiate, receive, investigate, refer for investigation and pass upon complaints charging unlawful discriminatory practices in violation of the Allegheny County Human Relations Commission as outlined under Chapter 215 of the Allegheny County Code of Ordinances. I am recommending that Mr. Nowak serve an initial two year term, which will expire on December 31, 2010.

I appreciate your consideration of Mr. Nowak and ask that you act on this appointment as quickly as possible. Mr. Nowak will make himself available for review before the appropriate committee if members of Council wish to speak with him.

Sincerely,

Dan Onorato  
Allegheny County Executive

ALLEGHENY COUNTY COUNCIL

'09 AUG 11 PM 2:45



## Mark F. Nowak

Partner

Construction and Land Use Practice Group Co-Chair

[mnowak@thorpreed.com](mailto:mnowak@thorpreed.com)

Pittsburgh

412 394 2428

412 394 2555

### Go to Mr. Nowak for

[Alternative Dispute Resolution](#)  
[Construction Law](#)  
[Litigation](#)

-Construction Litigation-  
Mediation/Arbitration-  
General Litigation

Mr. Nowak is a civil trial lawyer with a concentration in construction litigation. He is a member of the Academy of Trial Lawyers and has prosecuted cases in state and federal courts and before government agencies. He principally represents owners, contractors, architects and engineers, public agencies and insurers in public, private, commercial, industrial and institutional construction projects ranging in value from \$200,000 to \$320 million. Mr. Nowak has represented clients in construction disputes involving jails, airports, transit systems, cogeneration power plants, steel mills, petrochemical plants, bridges, commercial buildings and sports complexes. He has litigated claims for delay, acceleration, disruption, impact, personal injury and property damage. Mr. Nowak serves as an arbitrator and a mediator. He is on the AAA Construction MASTER Arbitrator Roster consisting of the 100 most qualified and experienced arbitrators with construction industry experience, and he also serves on the AAA Mediation panel. Mr. Nowak was named a Pennsylvania Super Lawyer (2005-2009), and also named in The Best Lawyers in America (2006-2009). Mr. Nowak currently serves as the solicitor for the Pittsburgh Water & Sewer Authority and as Thorp Reed & Armstrong's general counsel. He has also served as a course planner and faculty member for seminars and has authored articles in his area of practice.

## Education

- Mediation Training, Pepperdine University School of Law, Straus Institute for Dispute Resolution, 2002 and 2003-
- J.D., Emory University School of Law, 1982-
- B.A., Franklin and Marshall College, 1979

## Professional / Civic Activities

- Martindale-Hubbell AV rated
- Selected for inclusion in The Best Lawyers in America (2006-2009)
- Named one of Pennsylvania's Super Lawyers (2005-2009) by Philadelphia Magazine and Top 50 Lawyers in Pittsburgh 2008 and 2009
- Office of the County Executive-Community Citation of Recognition (October 6, 2004)
- "Solicitor's Commendation" for exemplary legal representation of the County of Allegheny (November 23, 1998)
- Lawyers on Loan, Firm Coordinator, of Inaugural Pro Bono Program (2004-2005)-Firm awarded Pennsylvania Excellence Award from Pennsylvania Legal Services (March 8, 2005) and the Louis F. Goffman Award from the Pennsylvania Bar Foundation for

outstanding pro bono services (May 4, 2005)

- Board of Directors, Venture Outdoors-
- Fellow, Academy of Trial Lawyers-
- Fellow, American Bar Foundation
- Fellow, Allegheny County Bar Foundation Arbitrator, Mediator and Early Neutral Evaluator – United States District Court for the Western District of Pennsylvania.
- Arbitrator – American Arbitration Association – Construction MASTER Arbitrator Roster (most qualified and experienced arbitrators, consisting of approximately 100 individuals with construction industry expertise.)
- Arbitrator – Allegheny County Bar Association Construction Dispute Resolution Group.
- Mediator – American Arbitration Association.
- Special Master – Selected by President Judge of the Court of Common Pleas of Allegheny County to hear and conciliate cases.
- Member – American Bar Association; Construction Litigation Committee; Forum on the Construction Industry.
- Member – State Bar Association of Georgia.
- Member – Pennsylvania Bar Association
- (2002), Chairman of Budget Committee (2001-2002), Board Member (1993-1999) (2001 to present), Chairman of Personnel Committee, and Member of Pro Bono Committee (1993-1999)
- Arbitrator, Early Neutral Evaluator and Mediator, Western District of Pennsylvania
- Arbitrator, American Arbitration Association-
- Arbitrator, Allegheny County Bar Association Construction Dispute Resolution Group-
- Mediator, American Arbitration Association
- Special Master, Selected by President Judge of the Court of Common Pleas of Allegheny County to hear and conciliate cases-
- Fellow, American Bar Foundation
- Fellow, Allegheny County Bar Foundation-
- Construction Litigation Committee; Forum on the Construction Industry, American Bar Association-
- Allegheny County Bar Association: Young Lawyers Division Council (1985-1986); Public Service Subcommittee (1988-1993); Municipal and School Solicitors Section (1985-1990); Civil Litigation Section; Construction Law Section Chair (2000-2001); Chairman of Liaison Committee with State and Federal Court; Unauthorized Practice of Law Committee (1993-1997); Louis Little Memorial Fund (1993-2001); Loan and Scholarship Committee (2001-present); elected to three-year term on Judiciary Committee (1998-2001)
- Trustee – Allegheny County Bar Foundation Loans & Scholarship Committee (2001–present) (formerly Louis Little Memorial Fund (1993–2001))
- Affiliate Member, Master Builders' Association of Western Pennsylvania-
- Associate Member – Constructors' Association of Western Pennsylvania
- Member, Associated General Contractors of America-
- Contemplative Outreach, Ltd.-, Board Member (2006–present), Treasurer (2007–present)
- Contemplative Outreach Pittsburgh, Co-Coordinator (2002-2006); Board Member (1998-present)
- Venture Outdoors, Board Member (2005–present)
- Volunteer (Present); Member of Executive Board (1993-1999), Rebuilding Together With Christmas in April \* Pittsburgh
- Emeritus Member (2000-present); Board Member (Nov. 1984-2000), PRISM Health

**Services (formerly West Mifflin Emergency Medical Service)-**

- Member (1989-present), St. Thomas More Society-
- Onorato Transition Team, Municipal Cooperation "City/County Shared Services" (December 2003-January 2004)
- Member (Oct. 1993-1996), City of Pittsburgh/County of Allegheny Cooperative Services Program's Public Works Task Force-
- Board Member (1993-2000); Vice President (1994), Lifeline of Southwestern Pennsylvania-
- Chair, Special Gifts, 25th Reunion Fundraising Committee for the Class of 1979 (1991-1994), Franklin and Marshall College
- Eucharist Minister (1988-1990); Chairman of Apostolic Committee; Member of Parish Self-Studay Task Force (1990), St. Agnes Church-
- Drafted contracts and provided legal advice (1987-1989), The Three Rivers Arts Festival-
- Member (1984-1986), Pittsburgh Clean City Committee

**Bar / Court Admissions**

- Member, Allegheny County Bar Association-
- Member, Pennsylvania Bar Association
- Member, State Bar Association of Georgia-
- Member, American Bar Association-
- Supreme Court of Pennsylvania-
- U.S. District Court for the Western District of Pennsylvania
- U.S. District Court for the Northern District of Indiana-
- Third Circuit Court of Appeals-
- Fourth Circuit Court of Appeals-
- Pro Hac Vice - West Virginia Supreme Court-
- Pro Hac Vice - U.S. District Court for the Middle District of Pennsylvania-
- Pro Hac Vice - U.S. District Court for the Northern District of Alabama-
- Pro Hac Vice - U.S. District Court for the Northern District of Florida

**Publications / Presentations**

- "Contract Interpretation: The Clear Language of a Contract Trumps the Discovery Rule for Latent Defects." *Construction Law News*, April 2006.
- "Taxation Without Representation: Without A Base Of Operations In The City, A Business Privilege Tax Cannot Be Assessed." *Construction Law News*, March 2005.
- "Township's Business Privilege Tax Unconstitutional." *Construction Law News* Additional Articles, December 2004.
- "What's New In Pennsylvania: Pennsylvania Appellate Courts Reaffirm Preference For Arbitration," *Construction Law News*, September 2004.
- "What's New In Pennsylvania: The Pennsylvania Supreme Court Finds That Written Construction Contracts Are Subject To The Four-Year Statute of Limitations," *Construction Law News*, June 2004.
- "What's New In Pennsylvania: Projects Must Pay Prevailing Wage," *Construction Law News*, March 2004.
- Trainer, "Arbitration Awards: Safeguarding, Deciding and Writing Awards," American

Arbitration Association, January 15, 2004

- "Know Your Coverage: A Material Supplier Is Not Covered By a Roofer's Insurance Policy," *Construction Law News*, December 2003
- "Owners: An Unsigned Bid is Not Valid," *Construction Law News*, September 2003
- "Design Professionals: Contractor Too Far Removed From Engineer to Assert a Negligent Misrepresentation Claim," *Construction Law News*, June 2003
- Moderator/Course Planner, "Civil Practice in the Allegheny County Court of Common Pleas," Pittsburgh, April 8, 2003-
- "Surety's Suit Against Construction Manager Dismissed," *Construction Law News*, March 2003-
- Lecturer and author of the "Exceptions to Public Bidding" and "Contract Termination" sections of "Public Contracts and Competitive Bidding in Pennsylvania," Lorman Education Services seminar, Pittsburgh, December 5, 2002-
- Trainer, American Arbitration Association, Annual Update, November 4, 2002 and December 9, 2002-
- Course Planner/Lecturer, "Pennsylvania Construction Law: What Do You Do When . . .?," National Business Institute, Pittsburgh, October 29, 2002-
- "Eichleay Formula Accepted in Ohio," *Construction Law News*, September 2002-
- "You May Have Longer Than You Think to File a Claim for Latent Defects," *Construction Law News*, June 2002-
- Lecturer, Pennsylvania Bar Institute, "PowerPoint for Lawyers," Pittsburgh, February 1, 2002-
- Moderator, Allegheny County Bar Association Construction Law Section, "Effective Construction Conflict Management: The Expanding Role of ADR to Resolve Disputes," May 15, 2001-
- Moderator, "Civil Practice in the Allegheny County Court of Common Pleas," Pittsburgh, April 11, 2001-
- Course Planner/Presenter, Pennsylvania Bar Institute, "Litigation Construction Site Injuries," Philadelphia, March 20, 2001; Pittsburgh, March 23, 2001
- "The Law Governing Construction Site Claims: Basis of Liability and Damages Against Contractors, the Construction Manager, the Design Professional and the Owner," Nowak, Ryan, Dee and Sterling, PBI No. 1998-1447, 2001 (updated PBI No. 2001-2801)-
- "How Effective Are Set-Aside Programs in Fighting Legal Development Battles," *Pittsburgh Business Times*, August 11-17, 2000-
- "Airport, Stadiums, County Succeed in Fighting Legal Development Battles," *Pittsburgh Business Times*, February 18-24, 2000- Lecturer, Master Builders' Association, "Construction Site Litigation," April 21, 1998-
- Course Planner/Presenter, Pennsylvania Bar Institute, "Litigating Construction Site Injuries," Philadelphia, February 25, 1998; Pittsburgh, February 27, 1998-
- Moot Court Judge, University of Pittsburgh School of Law, Health Care Clinic, November 18, 1997-
- Lecturer, Bench Bar Conference Construction Section, "Pennsylvania's Prompt Payment Act," June 15, 1996-
- Lecturer, Project Development Group, Inc., "Construction Contract Clauses and Risk Allocation," October 6, 1995- "Preliminary Report to the Special Committee on Endorsement Review," unpublished, submitted to The Pennsylvania Democratic Party, June 2, 1995-
- "Recognizing Virtue and Becoming a Professional," 143 P.L.J. 15-16, 1995-
- Lecturer, K.O.A., "Products Liability Law," October 4, 1993-
- "Election Process Faults Exposed," *Pittsburgh Post-Gazette*, sec. B-2, July 21, 1993-

- Lecturer, University of Maine Seminar on "Occupational Hearing Loss (FELA)," July 19, 1992-
- Lecturer, Master Builders' Association of Western Pennsylvania ADA Seminar, "Contractor Obligations Under the Americans with Disabilities Act," April 8, 1992-
- "Occupational Noise Exposure of Railroad Workers - Which Regulation Applies," 11 U.Pitt. J.L.&Com. 39, 1991-
- "Proposed Amendments to the Pennsylvania Mechanic's Lien Law of 1963," *The Master Builder*, p. 3, Fall 1991-
- "The Mechanic's Lien Law in Pennsylvania," *At Issue*, p. 5, 6, Spring 1991-
- "Architectural Fee Disputes," *Communique*, November 1990-
- Lecturer, Project Development Group, Inc., "Preventive Actions in Project Management," June 29, 1990-
- Lecturer, Southwestern Pennsylvania Municipal Secretaries Association, "Issues Relating to Municipal Work on Private Property," November 6, 1987-
- Lecturer, Pennsylvania Department of Community Affairs, "Legal Aspects of Code Enforcement," February 11, 1986-
- "Worker Participation and Its Potential Application in the United States," 35 LAB.L.J., p. 148, March 1984
- "Blue Pinned Stripe Suit" and "Station," *The Archon*, p. 12, 14, Spring 1982-
- Annotator 1981, Samuel B. Francis, Thomas M. Rutter, *Pennsylvania School Law*, Cleveland, Banks and Baldwin, 1970-
- "Our Corner," *The Archon*, p. 45, Spring 1981-
- "Durer's Virgin With Monkey," *Prolog*, Spring 1979

## Construction Litigation

- Recovered \$1 million for the Allegheny County Airport Authority from demolition contractors and an engineering firm, related to the release of asbestos during the demolition of the old Pittsburgh International Airport.-
- Obtained a favorable ruling from Justice Souter of the United States Supreme Court permitting the demolition of the old Pittsburgh International Airport.-
- Obtained a TRO in state court and settlement in international arbitration in excess of \$2 million for an engineering/automation contractor of two continuous pickling and annealing lines.-
- Represented a Korean EPC contractor in an action to recover amounts on a letter of credit for a \$320 million power plant project in Israel.-
- Tried various multi-million-dollar construction cases to verdict in West Virginia state and federal courts involving a cogeneration plant.-
- Defended Allegheny County in a \$75 million construction litigation involving the County jail, resulting in a mediated settlement.
- Represented precast subcontractors in a \$60 million litigation involving the construction of the Pittsburgh International Airport, resulting in a mediated settlement. Client paid nothing on the claim against it and received \$100,000 on the counterclaim.
- Obtained a directed verdict in Pennsylvania state court in a \$13 million property damage case involving construction of the Pittsburgh Subway.-
- Represented a general contractor in all property damage cases arising out of the Pittsburgh Subway construction.-
- Obtained defense verdict in extra work claim in AAA arbitration proceeding.

## Mediation/Arbitration

- Mediated general contractor's claim against a water authority involving construction of tanks and building.-
- Mediated general contractor and steel fabricator's claim against a county involving the construction of a courthouse.-
- Mediated residential construction claim.-
- Arbitrated a dispute involving drilling contractor and general contractor on a lock and dam project.-
- Arbitrated a dispute involving bidder and owner in construction of a hotel.-
- Arbitrated a dispute involving contractor and owner in construction of office building.-
- Arbitrated a dispute involving contractor and owner in the renovation of a country club.-
- Arbitrated a dispute involving claims by a contractor on a school foundation project.

## General Litigation

- Settled a multi-million dollar personal injury case with no payment to the plaintiff.-
- Successfully litigated a commercial case in a two-week non-jury trial, obtaining a verdict of \$235,000 and a defense verdict on plaintiff's multi-million dollar counterclaim.-
- Successfully negotiated a consent order and agreement with state and local environmental agencies, reducing the penalty from \$3,125,000 to \$125,000, and enabling an automobile shredder business to continue to operate.-
- Successfully represented a title insurance company in a default judgment and sanction action, avoiding damages of \$2 million.-
- Prosecuted an election challenge involving a Pittsburgh City Council seat.-
- Acted as co-counsel in the defense of attorneys before the PA Disciplinary Board and U.S. District Court.-
- Represented a township in a federal RICO action against developers and obtained a \$300,000 settlement.-
- Represented the County in an action by a school district that attempted to impose a parking tax on a County airport parking facility, case was ultimately determined by the Pennsylvania Supreme Court.-
- Argued before the Pennsylvania Superior Court, Commonwealth Court and Supreme Court of West Virginia.-
- Prepared briefs and assisted in preparation of argument before the Supreme Court of Pennsylvania and Fourth Circuit Court of Appeals.





# COUNTY OF ALLEGHENY

## OFFICE OF THE COUNTY COUNCIL

119 COURTHOUSE · 436 GRANT STREET  
PITTSBURGH, PA 15219  
PHONE (412) 350-6490 · FAX (412) 350-6499  
COUNCIL@COUNTY.ALLEGHENY.PA.US  
WWW.COUNTY.ALLEGHENY.PA.US/COUNCIL

September 2, 2009

Mark F. Nowak, Esq., Partner  
Thorp Reed & Armstrong, LLP  
One Oxford Centre  
301 Grant Street, 14<sup>th</sup> Floor  
Pittsburgh, PA 15219

Dear Mr. Nowak,

This is to inform you that two Appointment Review Committee Meetings have been scheduled for **4:00 PM, Wednesday, September 9, 2009** and **4:00 PM, Wednesday, September 16, 2009** in Conference Room One, 119 County Courthouse.

Your presence is requested at either of the meetings to discuss before the committee your nomination by the Chief Executive for appointment/reappointment to the Human Relations Commission of Allegheny County.

Please be advised that failure to attend either meeting will result in the withdrawal of your appointment and possible resubmission by the Chief Executive at a later date.

Please contact Fomeeka Bey Darwin at 412-350-4303 to inform her of which meeting you will be able to attend.

Sincerely,

A handwritten signature in cursive script that reads "John P. DeFazio".

John DeFazio, Chairman, Appointment Review Committee  
Allegheny County Council

JD/sb



# COUNTY OF ALLEGHENY

**OFFICE OF THE COUNTY COUNCIL**  
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PITTSBURGH, PA 15219  
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WWW.COUNTY.ALLEGHENY.PA.US/COUNCIL

September 29, 2009

Mark F. Nowak, Esq., Partner  
Thorp Reed & Armstrong, LLP  
One Oxford Centre  
301 Grant Street, 14<sup>th</sup> Fl.  
Pittsburgh, PA 15219

Dear Mr. Nowak,

This is to inform you that at the Regular Meeting of Allegheny County Council held on September 22, 2009, Council approved your appointment to serve as a member of the Human Relations Commission of Allegheny County for a term to expire on December 31, 2010.

Congratulations on your appointment and best of luck in this undertaking. We look forward to receiving your recommendations and stand willing to assist you in any way you believe appropriate.

Sincerely,

A handwritten signature in cursive script that reads "John P. DeFazio".

John DeFazio, Chairman, Appointment Review Committee  
Allegheny County Council

JD/sb