ECKERT
SEAMANS
ATTORNEYS AT LAW

JOEL LENNEN LEGAL PRIMER

ECKERT SEAMANS' ANNUAL CLE PROGRAM

Eckert Seamans presents the

2026 JOEL LENNEN LEGAL PRIMER

August 6, 2026

Eckert Seamans Cherin & Mellott, LLC
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Thursday, August 6, 2026 @ PPG Paints Arena (The Lexus Club)

Morning Session Agenda

7:45 – 8:30 a.m. | Registration and Breakfast

8:30 – 8:45 a.m. | Welcome Scott D. Cessar, CEO

8:45 – 9:15 a.m.
A Download on Data Centers – Data Center construction has become a significant economic driver, while also raising widespread public concerns across the country. This session will examine a number of key topics related to data centers, including site selection, title issues, community concerns, power access, environmental impacts and permitting.

Presented by David A. Rockman and Andrew K. Schwabenbauer

9:15 – 10:15 a.m.
Workplace Watch: Navigating the Tangle of Employee Leave Laws – An employee leave request can trigger overlapping obligations under the ADA, FMLA, PWFA, and a growing patchwork of state and local paid sick leave laws. This session offers practical strategies for evaluating and responding to leave and accommodation requests, as well as the compliance risks and litigation exposure employers face when they get it wrong.

Presented by Clare M. Gallagher and Laura Cottington Walter

10:15 – 10:30 a.m. | Morning Break

10:30 – 11:00 a.m.
Cyber Attack – It Could Happen to You! – Late on a Friday afternoon, a message pops up on your computer screen that states that all of the company's data has been encrypted and if the company does not pay, its data will be published on the dark web. Sadly, this scenario is all too common. It seems that almost every day we hear reports of another data breach impacting businesses both large and small. Ransomware attacks continue to cause significant losses of time, productivity, and money for companies across all sectors of industry. Data breaches are often the result of an escalating series of failures which include lack of monitoring, preparation, and adequate employee training designed to increase awareness of risky behavior, in addition to incomplete or non-existent evaluations and protections involving vendors and other third parties who receive or have access to valuable data from the organization. During this interactive session, participants will: (1) receive tips for increasing organizational awareness of cybersecurity risks; (2) examine effective strategies for managing and responding to a cyber incident; (3) gain a high-level understanding of breach notification laws; and (4) learn about best practices to create a culture of cyber awareness.

Presented by Matthew H. Meade

11:00 – 11:30 a.m.
Allegheny County Assessment Update – Assessments, common level ratios, the state tax equalization board and property reassessments have been hot topics in the local news for the past few years. Post-COVID commercial real estate values, revised common level ratio factors, and litigation filed by both owners and the taxing bodies have created much uncertainty for property owners in Allegheny County. This session will provide a summary review of how we got to where we are and what is anticipated for all property owners in Allegheny County moving forward.

Presented by Kimberly S. Tague

11:30 a.m. – Noon
Practice Before the Pennsylvania Superior Court

Presented by The Hon. Judith Ference Olson, The Superior Court of Pennsylvania, and Scott D. Cessar

Noon – 1:00 p.m. | Lunch (F.N.B. Club)

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ECKERT SEAMANS' ANNUAL CLE PROGRAM

Thursday, August 6, 2026 @ PPG Paints Arena (The Lexus Club)

Afternoon Session Agenda

1:00 – 1:30 p.m. **Courtroom Filings: Ethics, Pitfalls, and Best Practices –** Attorneys have a professional and ethical duty to ensure that every court filing complies with the applicable procedural rules, filing requirements, and ethical obligations. This session will examine the rules governing courtroom filings and identify common mistakes, while providing guidance regarding maintaining compliance with the applicable rules and ethical guidelines. Presented by Louis A. DePaul
1:30 – 2:00 p.m. **Trade Secret Litigation: From the Fundamentals to the Newest Developments –** Sometimes a company's most valuable assets are the ones it cannot afford to disclose. This session offers a practical introduction to trade secret disputes, including claims, defenses, available remedies, and recent developments. Presented by F. Timothy Grieco and Scott A. Bowan
2:00 – 2:30 p.m. **Can AI Own a Brand? Artificial Intelligence and the Future of U.S. Trademark Law** Presented by Mark A. Mazza
2:30 – 3:00 p.m. **Emerging Legal Risk Areas in Construction** Presented by David Meredith and Jacob C. Hanley
3:00 – 4:00 p.m. **(Ethics Hour) Better Prompts, Better Judgment: Using AI Responsibly in Transactions and Litigation –** An exploration of the real-world ethical risks of AI use in transactional drafting and diligence, litigation discovery, and court submissions – and the duties of competence, candor, confidentiality, and supervision they implicate – with practical guidance for integrating AI responsibly into everyday practice. Presented by Gerard Hornby and Derek T. Luke

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A DOWNLOAD ON DATA CENTERS

Presented by: David A. Rockman and Andrew K. Schwabenbauer

David A. Rockman | Member | Pittsburgh
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David Rockman helps clients to manage environmental compliance and environmental risks and to understand and meet their legal obligations with respect to federal, state, and local environmental laws, regulations, and permits. David also defends clients facing enforcement actions, represents clients involved in environmental litigation, and provides representation with respect to environmental issues in the purchase and sale of businesses and property.

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Andrew Schwabenbauer focuses his practice on real estate law, specializing in the complex business and legal issues surrounding the oil and gas industry. He handles a broad range of real estate matters, including acquisitions, divestitures, and large-scale due diligence projects. Andrew provides strategic guidance to clients on zoning, land use, and title issues throughout the due diligence process and acquisition of real estate assets. He also negotiates, drafts, and reviews agreements concerning the transfer or leasing of real estate assets and the operation of oil and gas properties.

A Download on Data Centers

Presented by: David Rockman and Andrew Schwabenbauer

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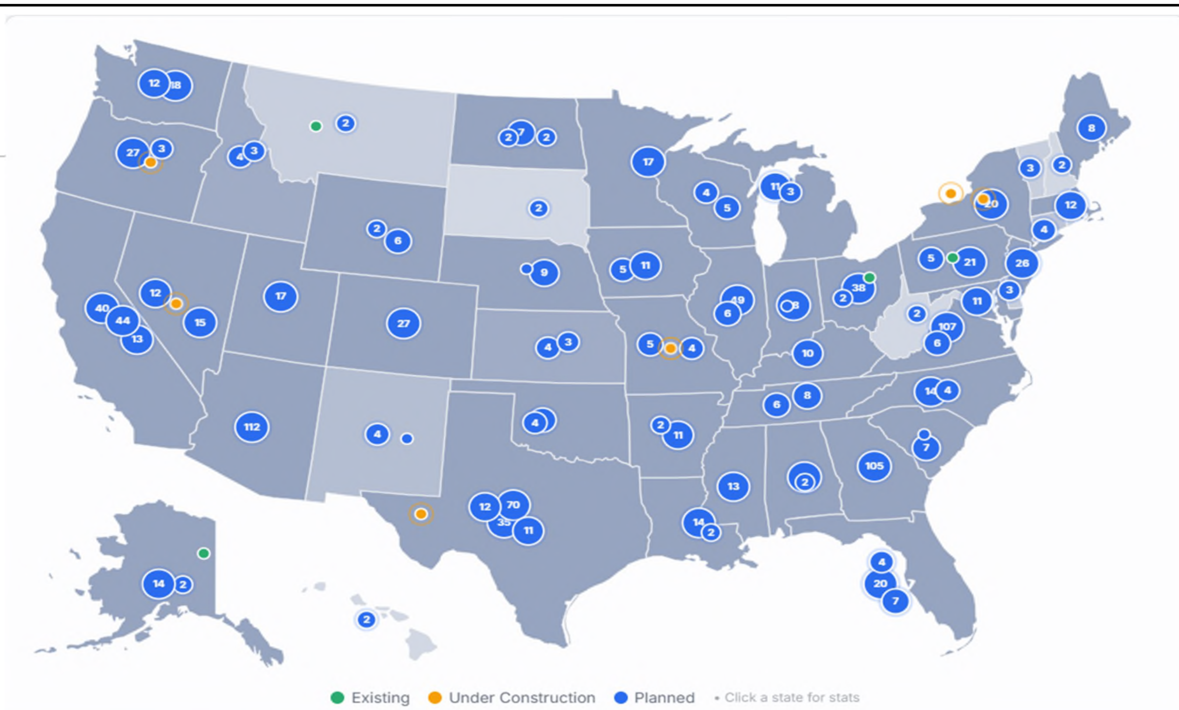
Why Are Data Centers Suddenly Receiving So Much Attention?

- Growing Needs:
  - Generative AI is accelerating demand for computing infrastructure.
  - Cloud computing, streaming, cybersecurity, and digital services continue to expand.

- Growing Impacts:
  - Hyperscale campuses now require large footprints and hundreds of megawatts of electricity
  - Community concerns and objections have been important project considerations

Data Center Growth in the United States

- Approximately 3,000–5,000 data centers operate in the U.S. (definition dependent).
- Hundreds/Thousands of additional facilities are under development.
- Major markets include Northern Virginia, Texas, Ohio, Arizona, Georgia, and Pennsylvania.



Real Estate Considerations

Why Does Real Estate Matter?

- AI is changing how modern data centers are developed.
- Modern AI campuses require hundreds of acres.
- Other than power, real estate is one of the top site selection factors.

Site Selection Considerations

- Hyperscale AI campuses commonly require 100–500+ acres.
- Preferred sites include flat topography, fiber connectivity, highway access, and water/wastewater capacity.

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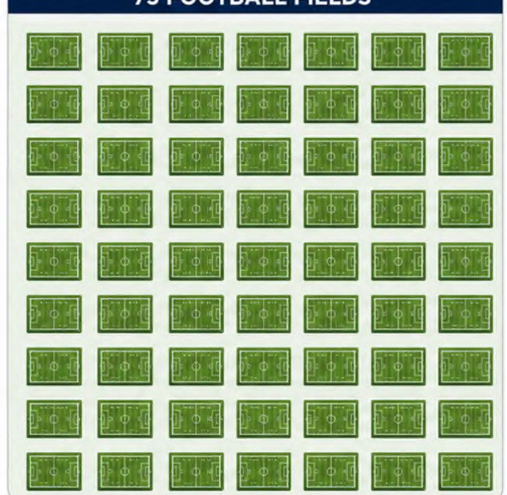
TYPICAL AI DATA CENTER CAMPUS

EQUIVALENT TO APPROXIMATELY
75 FOOTBALL FIELDS



100–500+ ACRES	250,000–750,000+ SQ FT PER BUILDING	100–500+ MW OF POWER	ROOM FOR FUTURE EXPANSION

100 ACRES ≈ 75 FOOTBALL FIELDS
Modern AI data centers require hundreds of acres for buildings, infrastructure and expansion.

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Real Estate Scale of Modern Data Centers

- Individual buildings commonly contain 250,000–750,000 square feet.
- Large campuses often include multiple buildings, substations, backup generation, and cooling infrastructure.
- Modern AI campuses resemble industrial facilities more than traditional office developments.

TYPICAL AI DATA CENTER BUILDING

250,000 – 750,000+
SQUARE FEET

250,000 – 750,000+ SQ FT PER BUILDING

HOUSES THOUSANDS OF SERVERS

100 – 500+ MW OF POWER

BUILT FOR 24/7 HIGH RELIABILITY

EQUIVALENT TO FOUR WALMART SUPERCENTERS

~ 720,000
TOTAL SQUARE FEET

ONE MODERN AI DATA CENTER BUILDING IS APPROXIMATELY EQUAL TO **FOUR WALMART SUPERCENTERS**

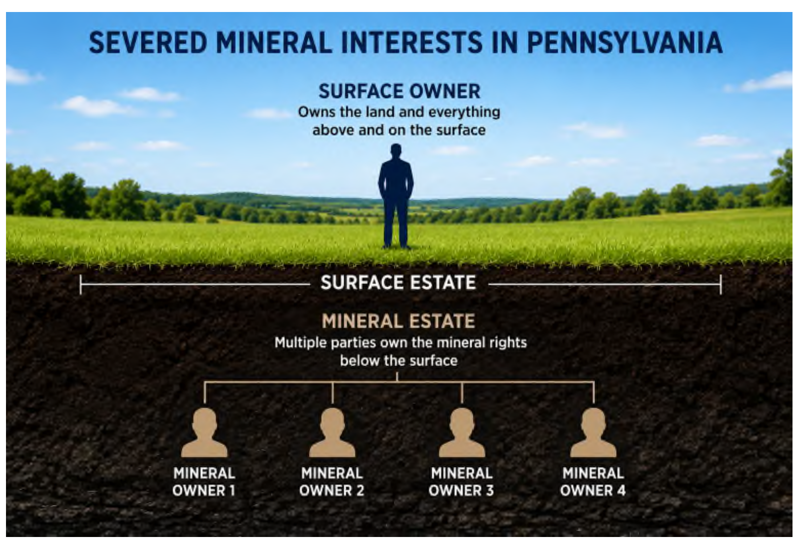
MODERN AI DATA CENTERS ARE SIGNIFICANTLY LARGER THAN TYPICAL COMMERCIAL BUILDINGS.
The scale of these facilities requires extensive real estate, infrastructure, and utility capacity.

Title Issues

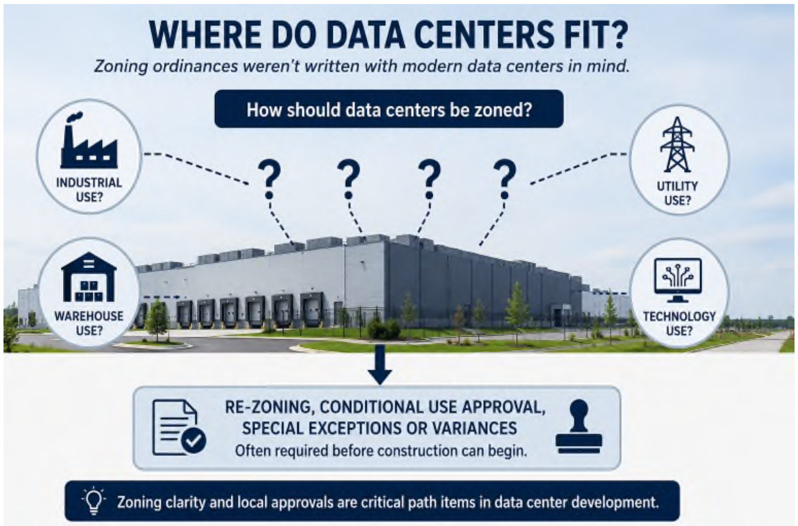
- Standard title review includes easements, rights-of-way, restrictive covenants, and utility/pipeline easements.
- Pennsylvania presents unique issues involving severed mineral estates.
- Title concerns frequently extend beyond traditional commercial real estate issues.

Severed Mineral Interests

- Mineral ownership is frequently severed from surface ownership.
- The mineral estate possesses implied surface-use rights.
- Title companies frequently require surface use waivers, non-disturbance agreements, or subordinations.
- Mineral owners may require compensation before executing these agreements.



Land Use and Zoning



- Many zoning ordinances were not drafted with data centers in mind.
- Rezoning may be needed.
- Projects commonly require rezoning, conditional use approval, special exceptions, or variances.

Real Estate Takeaways

- The legal issues are familiar—the scale and complexity are not.
- After power availability, real estate can be a threshold issue in project feasibility.
- Real estate, environmental, and regulatory issues are interconnected and should be addressed together.

Environmental Considerations

Environmental Issues and Community Concerns

- Noise
- Water use
- Energy demand
- Air emissions
- Land use and community impacts

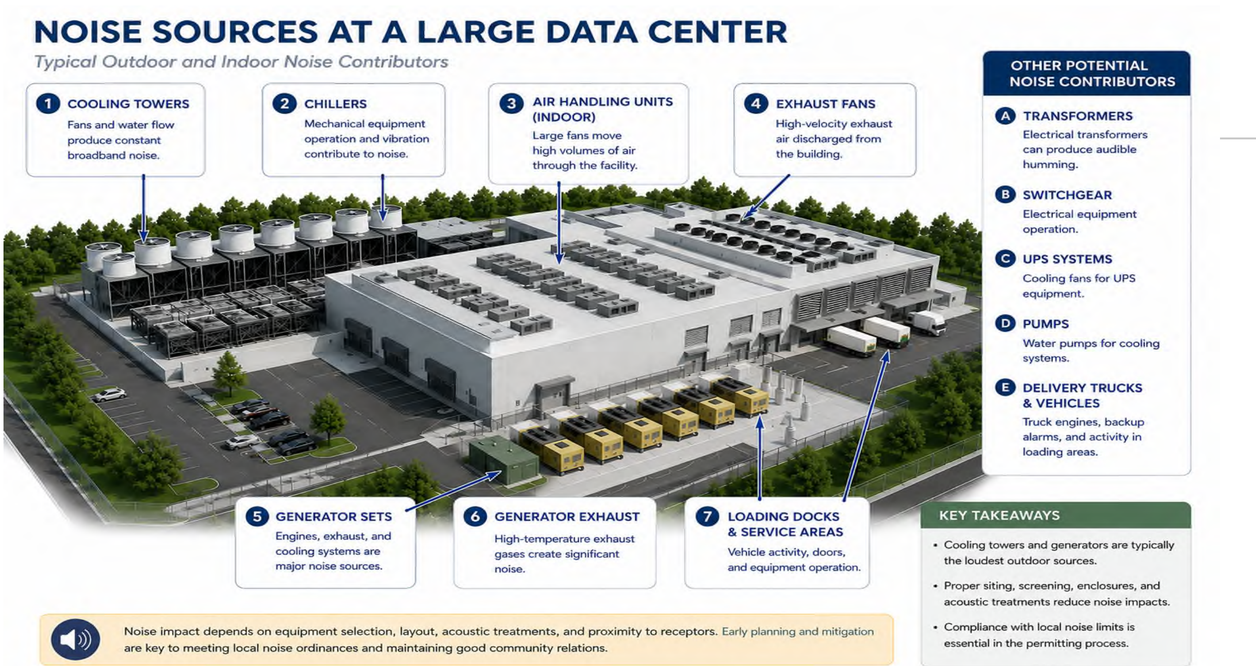
Emerging Restrictions on Data Centers

- NY: 1-year ban on data centers of more than 50 MW
- Have been proposed bans in at least a dozen other states
  - A good number have failed

- PA budget bill: data centers must report annual water and power usage
- PA proposed legislation (a sampling):
  - SB 1359: Proposed 3-year moratorium on new hyperscale data centers
  - SB 1345: Allow municipalities to pause data center applications to update local regulations
  - SB 1344: Repeal sales and use tax exemption on computer equipment for data centers

Modern AI Data Centers Are Fundamentally Different

- Older facilities: 10–30 MW; modern AI campuses: 100–500+ MW
  - Increases footprint size from dozens of acres to hundreds of acres
- GPU clusters (working in parallel) replacing CPU (working sequentially) computing
  - i.e. a different kind of computing, more powerful but needing more power and more cooling
- Air cooling giving way to liquid cooling.
  - So, greater water demand
- Larger backup power systems.
- Now resemble major industrial facilities.



Noise Impacts

- Depending on sound frequency, terrain and other ambient noise, can be heard up to 0.25 to 2.5 miles away

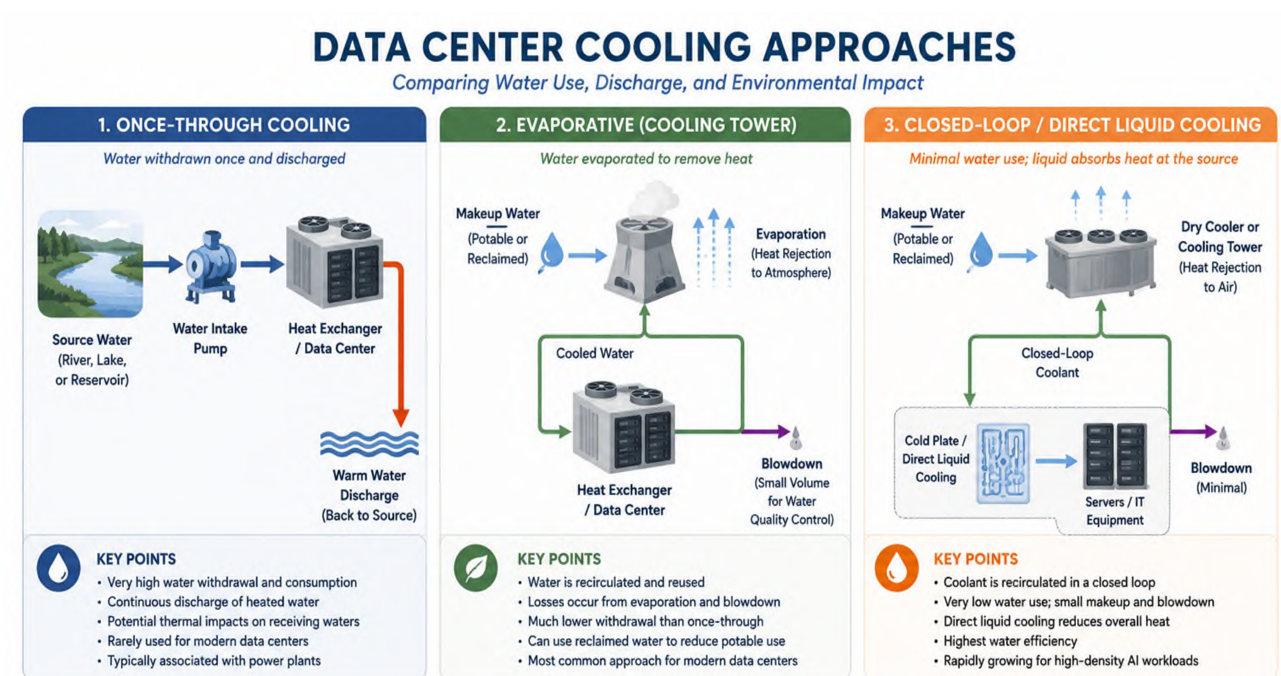
- Noise is typically regulated by local ordinances and zoning
  - Max decibel level
  - Max increase over ambient
- Neither of these necessarily work well

- Project Planning:
  - Acoustic studies support permitting
  - Mitigation includes acoustic modeling, barriers, equipment selection, and site layout.
  - Noise easier to control in design phase than as corrective measure

Water Demand

- A lot of public concern over Data Center water use
  - A perception that Data Centers use too much water

- Cooling systems account for most operational water use
- Useage amounts depends on cooling technology and climate
- AI facilities generally require more cooling than older legacy facilities



Comparison of Water Usage

Cooling Technology	**Typical Fresh Water Withdrawal** *(100-MW Facility)*	Relative Water Withdrawal	Typical Application
Once-Through Cooling	**20–50 (??) million gallons/day (MGD)**	Very High	Rare for modern data centers; historically used at industrial facilities and power plants adjacent to large water bodies.
Evaporative Cooling (Cooling Towers)	**0.3–1.5 MGD**	Moderate	Most common cooling approach for hyperscale data centers.
Closed-Loop / Direct Liquid Cooling	**0.05–0.3 MGD**	Low	Increasingly common for AI data centers and high-density computing.

Water Use / Water Discharge Regulation

- No Statewide regulation of water use in PA
  - Is a water use registration requirement with PA DEP
- Water withdrawal and use regulated by
  - SRBC
  - DRBC

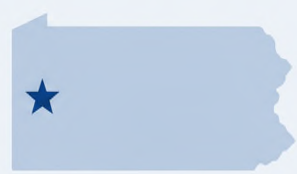
- Water discharge more heavily regulated
  - Permit required if discharging to a river/stream/lake
  - Discharge to local POTW also possible

Electrical Demand of Modern Data Centers

- Modern AI campuses commonly require 100–500+ MW of electrical service.
  - Up to 10x more power demand than a data center 10 years ago
  - City of Pittsburgh estimated demand:
    - 600-900 MW (average)
    - 1000-1,500 MW (hot summer day)
- Some announced data center projects approach or exceed 1 GW of demand.
  - On average basis, this is > 1 million electric cars

- Electricity availability is now a primary site-selection factor.
- Large projects often require new substations and transmission upgrades

POWER (MW)	EQUIVALENT HOMES POWERED*	EQUIVALENT FACTORIES**	COMPARABLE CITY IN WESTERN PA
250 MW	~ 200,000	~ 250	BUTLER, PA
POWER DEMAND OF A MODERN AI DATA CENTER CAMPUS	enough for 200,000 homes	average size manufacturing facilities	Population ~ 14,000 Peak Demand ~ 230–250 MW



A single modern AI data center campus can consume enough electricity to power a city.
Power availability and infrastructure drive site selection and project feasibility.

* Based on 1,200 kWh per home per month
** Based on average 1 MW per facility

Reliability and Emergency Backup Generators

- Data Centers need constant power
  - 5 “9s” Reliability: 99.999% up-time
  - Equal to not more than 5 minutes downtime/year
- Emergency generators provide power during grid outages.
  - Large campuses may include dozens to hundreds of generators.
    - 100 MW center may need 40-60 backup generators
  - One estimate – data centers in Virginia have 10,500 diesel generators in place
  - Routine testing creates emissions and noise
  - This number creates significant air permitting issues

Grid Infrastructure Challenges

- The scale of AI Data Centers means that they just can’t plug into the grid and be ready to go
  - Transmission capacity constraints can delay project development
  - Utility interconnection studies are increasingly complex
  - In PA: PJM queue delays can affect and delay project schedules
- Significant community concerns that power usage by data centers is increasing consumer electric rates
  - Recent study: $23 billion increase in rates through 2028
  - 267% increase in areas with many data centers

On-Site Power Generation Options

- Natural gas combustion turbines
- Coal power plants
- Fuel cells
- Renewables/Battery storage systems
- Future small modular nuclear reactors (SMRs)

On-Site Power Generation Concerns

- Solves one challenge, but doubles-down on others
- Creates/increases/magnifies:
  - Air emissions
    - Magnitude is fuel dependent
  - Water use and discharge
  - Noise
  - An even larger land-use footprint

Thank you & Questions

Key Takeaways

1. AI is fundamentally changing the scale and complexity of data center development.
2. Successful projects require multidisciplinary planning.
3. The legal and regulatory landscape is rapidly evolving.

Let's stay connected

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WORKPLACE WATCH: NAVIGATING THE TANGLE OF EMPLOYEE LEAVE LAWS

Presented by: Clare M Gallagher and Laura Cottington Walter

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Clare Gallagher, a partner at Eckert Seamans for over 15 years, is a distinguished labor and employment law practitioner. As a member of the firm's Executive Committee, Board of Directors, and Chair of its Labor and Employment Practice Group, Clare brings over three decades of diverse experience to her clients.

With a career spanning both private practice and in-house roles, Clare offers a unique perspective on traditional labor law, employment law, and litigation. Her expertise encompasses managing complex legal matters, including class action litigation, overseeing corporate acquisitions, finance, and governance, and handling employment-related legal issues across various industries.

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Laura Cottington Walter focuses her practice on a broad range of labor and employment matters. Laura represents both public and private sector employers in employment issues, grievance arbitrations, and employment-related litigation in matters before federal and state courts as well as federal and state agencies. Laura has experience defending employers against discrimination and retaliation claims under Title VII, the Americans with Disabilities Act, the Age Discrimination in Employment Act, and the Family and Medical Leave Act; wage and hour claims; claims under various state employment laws; and in whistleblower actions. Laura's diverse experience also includes litigating collective/class wage-and-hour claims under the Fair Labor Standards Act and state laws.

Workplace Watch: Latest Updates on Employee Leaves

Presented by: Clare M. Gallagher and Laura Cottington Walters

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ADA, FMLA, PWFA and Local Leave Laws

- Americans with Disabilities Act
- Family and Medical Leave Act
- Pregnant Workers Fairness Act
- Pittsburgh Paid Sick Days Act
- Allegheny Sick Leave Ordinance
- Proposed Amendments to Allegheny Sick Leave Ordinance and Addition of Paid Parental Leave

ADA, FMLA and PWFA Broad Overview

- The **Americans with Disabilities Act (ADA)** prohibits discrimination against qualified individuals with a disability, those with a record of a disability, and those "regarded as" having a disability and ***addresses reasonable accommodations for individuals with disabilities***.
- The **Family and Medical Leave Act (FMLA)** ***sets minimum job protected leave standards for EES*** for various reasons, including the EE'S own serious health condition that makes the EE unable to work.
- **The Pregnant Workers Fairness Act (PWFA)** requires covered ERS to ***provide reasonable accommodations*** to a worker's known limitations related to pregnancy, childbirth, or related medical conditions, ***which can include protected leave.***

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ADA, FMLA and PWFA Broad Overview

- Leaves can run concurrently with each other and with other types of leave
- Laws can require different things
- Obligations may stack
- Interactive process is critical under the ADA and PWFA
- Documentation of process is critical
- All contain nondiscrimination and retaliation protection

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AMERICANS WITH DISABILITIES ACT

ADA: Who Is Covered?

- Covered ERS: private ERS with 15 or more EES; certain public entities, employment agencies and labor unions
- Covered EES/applicants: qualified individuals with a disability who can perform the essential functions of their job with or without reasonable accommodation
- Disability definition: physical or mental impairment substantially limiting one or more major life activities; record of; or regarded as having an impairment

ADA: Rights and Key Definitions

- Right to reasonable accommodation, absent undue hardship
- Can the EE perform the essential functions of the job with or without reasonable accommodation?
- Essential functions: fundamental job duties, not marginal tasks
- Undue hardship: significant difficulty or expense considering resources and operations
- Direct threat: significant risk to health/safety that cannot be eliminated by accommodation

ADA: Employer Obligations (highlights)

- Engage in good-faith, prompt interactive process upon notice of need for an accommodation
- Provide reasonable accommodations (*e.g.,* schedule changes, equipment, ***leave as an accommodation)***
- Maintain confidentiality of medical information in separate files
- Address accommodation requests promptly

FAMILY AND MEDICAL LEAVE ACT

FMLA: Who is Covered?

- Covered ERS: Private ERS with 50 or more EES in 20 or more workweeks in the current or preceding calendar year, public agencies, federal govt, schools
- EE eligibility: 12 months of service, 1,250 hours in the prior 12 months, and works at a site with 50 or more EES within 75 miles
- Family members include spouse, child, parent; military caregiver and exigency rules apply

Family and Medical Leave Act (FMLA)

Qualifying Reasons and Rights -

- Up to 12 weeks of unpaid, job-protected leave for serious health condition, bonding, family care, certain military reasons; 26 weeks for military caregiver
- Intermittent/reduced schedule leave when medically necessary
- Maintenance of group health benefits and right to reinstatement to same/equivalent position

PREGNANT WORKERS FAIRNESS ACT

Pregnant Workers Fairness Act (PWFA)

Who Is Covered?

- Covered ERS: Private ERS with 15 or more EES; public sector ERS
- Eligibility: Qualified EES/applicants with known limitations related to pregnancy, childbirth, or related medical conditions
- EE can be qualified even if they cannot do the essential functions of their job as long as:
  - The inability is "temporary"
  - EE could perform the functions "in the near future" and
  - The inability to perform the essential functions can be reasonably accommodated
- An EE who is temporarily unable to perform one or more essential functions of their job, and who therefore needs light duty or a change in their work assignments, may be able to get such a change as a reasonable accommodation

PWFA

Requirements -

- EE'S right to reasonable accommodations for known limitations absent undue hardship
- Known limitation: physical or mental condition related to pregnancy/childbirth that affects ability to perform job
- EES may be entitled to accommodations even if they are temporarily unable to perform the essential functions of their position (not the same analysis as the ADA)
- Explicitly prohibits ERS from requiring an EE to take paid or unpaid leave as an alternative to an on-the-job accommodation

PWFA – ACCOMMODATIONS (Examples)

- Schedule changes
- Time off to go to health care appointments
- Extra bathroom breaks
- A chair or stool to sit on while working
- The ability to telework full or part-time
- Temporary reassignment
- Temporary suspension of one or more essential job functions
- Light duty
- Lifting limits
- Breaks to eat and drink
- Leave to recover from childbirth
- A private place to pump breast milk (same as PUMP Act)

LOCAL SICK DAY COVERAGE
City of Pittsburgh
Allegheny County

Pittsburgh and Allegheny County Paid Sick Days

Pittsburgh –

- Paid Sick Days Act (PSDA)
- Updated 1/1/2026
- Methods – Accrual or Frontloading
- ER with less than 15 EES = 48 hrs.
- ER with 15 or more EES = 72 hrs.
- 1 hr. of paid sick leave for every **30** hrs. worked
- Accrual begins on day #1, ER can require EES to wait 90 days to start using
- Unused can be carried over to new year, unless ER frontloads the Sick Time
- ER PTO plan can be used if it meets **<u>all</u>** of the PSDA requirements

Allegheny County – (as of 8.6.26)

- Paid Sick Leave Ordinance (Sick Time)
- Methods – Accrual or Frontloading
- ER with less than 26 EES = Not Applicable
- ER with 26 or more EES = 40 hrs.
- 1 hr. of paid Sick Time for every 35 hrs. worked
- Accrual begins on day #1, ER can require EES to wait 90 days to start using
- Unused can be carried over to new year, unless ER frontloads the Sick Time
- ER PTO plan can be used if it meets all of the Sick Time requirements

Note: Proposed amendments are pending . . .

Pittsburgh Paid Sick Days

Permitted Uses:

- Diagnosis, care, or treatment of a mental or physical illness, injury, or health condition, including preventive medical care, for the EE or the EE'S family member
- The closure of the EE'S place of business, a child's school, or a child's place of care by order of a public official due to a public health emergency, or other required exclusion of the EE from the workplace for health reasons
- Care for a family member when a health authority or health care provider has determined that the family member's presence in the community would jeopardize the health of others due to exposure to a communicable disease

Note: Family Member – extremely broad definition

Allegheny County Paid Sick Time

Permitted Uses:

- EE'S or EE'S family member's illness or care, diagnosis, care, or treatment of a mental or physical illness, injury, or health condition, including preventive medical care, for the EE or a covered family member
- Public health emergency closures: Closure of the EE'S place of business, or the need to care for a child whose school or place of care has been closed, by order of a public official due to a public health emergency
- Communicable disease exposure: Care for a family member when health authorities or a health care provider have determined that the family member's presence in the community would jeopardize the health of others due to exposure to a communicable disease, whether or not the family member has contracted the disease

Note: Like PSDA, Family Member is defined very broadly

How the Laws Interact: Big Picture

- FMLA provides job-protected leave
- ADA and PWFA provide accommodations, which can include leave
- Leave may run concurrently with FMLA and as ADA/PWFA accommodation
- Additional leave beyond FMLA may be reasonable
- Pregnancy-related conditions may implicate all three laws depending on facts

- Benefits during leave:
  - STD, S&A, LTD, state-provided leave, Sick Leave, FMLA
- Health insurance?
  - During leave
  - Following leave
- Medical documentation?
  - What can you ask?
  - What can you receive?
- Restricted or light duty
- Certification of fitness to return to work
- Reinstatement

INTERACTION OF ADA AND FMLA

- FMLA entitlement does not eliminate ADA obligations
- Consider accommodations during and after FMLA.
- After FMLA exhaustion, evaluate additional unpaid leave or alternative accommodations under ADA
- Fitness-for-duty: FMLA allows return-to-work certifications
- ADA limits medical inquiries to job-related necessity

PWFA AND PREGNANCY-RELATED LEAVE

- PWFA requires accommodations other than leave
- Do not default to leave if effective on-the-job adjustments exist
- Leave should be a last resort
- FMLA bonding and prenatal care may qualify
- Run leave concurrently when appropriate
- ADA may apply if pregnancy-related impairments substantially limit major life activities
- PWFA applies even when the ADA does not

PWFA AND PREGNANCY-RELATED LEAVE

- Concurrent Leave and Benefits
- Designate FMLA promptly so time runs concurrently with paid leave and workers' comp where applicable
- Maintain benefits per FMLA for duration of FMLA leave
- ADA/PWFA - follow terms of health plan and avoid discriminatory benefit decisions
- Coordinate paid sick time or leave requirements
- PWFA provides significant rights when FMLA, sick and other paid time off is not available or exhausted

EMPLOYEE LEAVE CHECKLIST

- What federal and state statutes and/or local ordinances apply?
  - To the ER?
  - Is the EE covered/eligible?
- What ER policies apply?
- Is there an applicable collective bargaining agreement?
- Will the EE grow into additional leave entitlements?
- Are there workers' compensation considerations?
- Is the leave paid or unpaid?
- Benefits during leave:
  - STD, S&A, LTD, state-provided leave, Sick Leave, FMLA
- Health insurance?
  - During leave
  - Following leave
- Medical documentation?
  - What can you ask?
  - What can you receive?
- Restricted or light duty
- Certification of fitness to return to work
- Reinstatement

Scenario #1

- Liz is pregnant and has developed gestational diabetes. Liz requests intermittent time off work to attend prenatal appointments to address and monitor her gestational diabetes and the health of her developing baby. What laws may apply to Liz's situation?
  - Liz is covered by the PWFA and she has the right to request a reasonable accommodation to attend her appointments under the PWFA. Gestational diabetes is a medical condition related to pregnancy, and Liz has a known limitation that requires accommodation in the form of time off work without penalty to attend medical appointments.
  - Is Liz also covered by the ADA? Gestational diabetes is an impairment that can limit the body's endocrine system to function properly. Is the impairment "temporary" or not? Does Liz an individual with a disability under the ADA?
  - If Liz qualifies for FMLA and has not exhausted her FMLA leave, then she can use FMLA to attend her appointments because gestational diabetes qualifies as a serious health condition.
  - Liz can utilize her paid sick time because the appointments are for the treatment of a health condition, including preventive medical care.

Scenario #2

- Barb is an employee with an ADA disability. Barb asks to be excused from work one day a week for the next six months because of her disability. Barb is eligible for intermittent FMLA leave and has requested FMLA leave. What are Barb's rights?
  - Even if it would be an undue hardship under the ADA, Barb has a right to FMLA leave since there is no opportunity for the company to argue "undue hardship" under the FMLA.
- Let's assume that Barb's employer has a policy that Barb must use her paid time off before she can use unpaid FMLA leave. When Barb takes an intermittent leave day each week, can her employer force Barb to use her paid sick time under the Pittsburgh Paid Sick Days Act?
  - Thoughts?

Scenario #3

- Mike is a qualified individual with a disability who is also an eligible employee entitled to FMLA. Mike requests 10 weeks of medical leave to have surgery and recovery time needed because of his disability.
- Is the leave covered by FMLA and the ADA?
  – Yes, Mike's employer grants the FMLA leave, continues Mike's health insurance coverage. The leave is also a reasonable accommodation under the ADA.
- During Mike's leave, he contacts the company's HR manager and informs the HR manager that his physician directed him to continue his physical therapy for an additional 2 weeks before returning to work. What should the HR manager say?
- Does Mike have job-protected leave to return to his job or only to an equivalent position?
- What if Mike's leave totals 14 weeks, not 12? Any difference?
- What about Mike's health insurance?

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Scenario #4

- George works for a small company in Monroeville, PA. The company has a total of 12 employees. Mike and his spouse are fostering to adopt a newborn who develops a serious health condition and George tells his supervisor, Sandy that he needs to take tomorrow off to take his daughter to the doctor. Sandy says, "You cannot take the day because you did not follow company procedure of giving 48 hours' written notice to request PTO to attend a doctor's appointment."
  – Does George have any rights to FMLA leave?
  – Can George use paid sick days to cover the appointment?
  – What about George using paid time off?

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Scenario #4

April, a warehouse worker, who is in her 20th week of pregnancy, has called in sick for three days. April has had inconsistent attendance during her three years of employment, but she has not missed much time during her pregnancy thus far, except for her regularly scheduled doctor's appointments. She returns to work with a note from a certified registered nurse practitioner (CRNP) that she has a lifting restriction of no more than five pounds. There is only one position in the warehouse that does not require lifting more than five pounds, but the most senior employee covered by the ER'S collective bargaining agreement holds seniority rights to the dispatcher position.

- When you speak with April, she tells you that she was moving furniture in the baby's room and strained her back. Does April have a right to light duty, not lifting more than 5 pounds?
- What laws apply in this situation?
- Does it make a difference if the note is from April's ob/gyn physician?
- Should April be placed on a leave?
- What should the HR manager do?

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RETURNING TO WORK

- FMLA certification to return to work
  - What if EE needs an accommodation?
  - What can the ER receive?
  - Second opinions?
- Safety Issues
  - Threat to oneself or others
  - Must be real; cannot be perceived or feared
- Accommodations – ADA/PWFA
  - Additional time to return to work
  - Work hardening
  - Modified schedules
  - Lactation breaks
  - Remote work
  - Intermittent leave or paid sick leave

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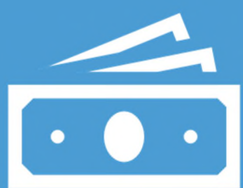
PROPOSED REVISIONS TO ALLEGHENY COUNTY PAID SICK LEAVE ORDINANCE



ARTICLE XXIV, PAID SICK AND PARENTAL LEAVE

Sick Leave Proposed Amendments

- ER – going from 26 or more EES to all ERS (1 or more)
- ER with less than 15 EES = 48 hrs.
- ER with 15 or more EES = 72 hrs.
- 1 hr. of paid sick leave for every 30 hrs. worked
- Requires ERS to designate paid sick and parental leave that accrues and is calculated separately from other paid leave offered by the ER even if the employer makes available paid time off sufficient to me the accrual requirements of the ordinance

Parental Leave - Additional Benefit

- Leave for the birth, adoption or legal placement of a minor (including foster care)
- Eligible EE – after 30 days
- ER – one or more EES
- Length – up to 18 weeks
- Window – within 18 months
- Pay – full base pay
- Intermittent permitted within window
- If Parents work for same ER – leave can be taken concurrently or consecutively

ALLEGHENY COUNTY PROPOSED AMENDMENTS

- Paid Sick Leave revisions – mirror City requirements
- Parental Leave – more generous than bills introduced, but not passed, at the state level; most generous leave proposal and does not have a funding mechanism – just mandates ERS pay for it
- Requires continuation of benefits during the parental leave
- If approved by the Health Department Board, amendments will move to County Council where it will need to be approved; action could be as early as September
- Proposed amendments are within the Paid Sick Leave Ordinance, which draws its authority under the PA Local Health Administration Law
- Does the authority under the PALHAL extend to leave taken by an EE to care for the physical and emotional well-being and bond with the EE'S child?

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Thank you & Questions

Key Takeaways

- Multiple laws can apply to the same situation
- Every request for leave must be considered under a variety of legal frameworks
- Remember - restrictions on information and requirements on confidentiality
- Laws has anti-discrimination and anti-retaliation obligations

Let's stay connected

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ECKERT SEAMANS 34

CYBER ATTACK – IT COULD HAPPEN TO YOU!

Presented by: Matthew H. Meade

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Matt Meade chairs the firm's Cybersecurity, Data Protection and Privacy Group. He advises clients regarding data breaches, information and records management, and other areas concerning data security. Matt helps clients identify business risks associated with the use and storage of sensitive information. He regularly guides clients through security incident investigations, analysis, communications, and, if necessary, responding to regulatory inquiries and litigation. He advises clients on security breach notification laws and other U.S. state and federal data security requirements (including laws regarding disposal of records). Matt drafts agreements addressing issues related to data use, privacy, and security. He also prepares document retention and management policies and develops associated training programs.

IT COULD HAPPEN TO YOU!

Presented by: Matt Meade

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2

Ransomware Attack

On Friday night IT discovers that the company has been the victim of a ransomware attack. As a result, all employees are locked out of their computers and unable to work.

ReadMe.txt
The IT team finds copies of a ransom note on workstations and servers.

The Ransom Note

KAIROS

Your security was breached, allowing us to control your network for WEEKS.
We are not a politically motivated group and we want nothing more than money.
We have downloaded your most SENSITIVE DATA -- if you do not pay, everything will be PUBLISHED and/or SOLD to a third party.

We collect the most valuable and harmful data, such as:

- Accounting, Finance, Banking, Billing, Statements, HR, Payrolls
- Legal, Audit & Revenue Reports, Budgets
- Backups, Source Codes, Credentials, Databases with private data
- Agreements, NDA, Corporate Contracts, WorkFiles, Employee's private info and agreements, Tax and IRS files
- Private Correspondence of your Executive Team
- SSN/Address/Phones/Emails/Driver Licenses/Signatures/Photos/Medical history/etc
- Any other files with personal & private data

The PUBLICATION of THIS DATA will lead to DISASTROUS CONSEQUENCES for your business

NEXT STEPS & IMPORTANT NOTES

CONTACT US As Soon As Possible

It's a Criminal Investigation

- Treat IT environment like the crime scene. It is!
- Preserve evidence. Do not delete data or flatten systems until the forensic investigation company gives the ok.
- Critical to determining what has happened and the Company's obligations

Action Steps

- Who is in the room to make decisions about the next steps for the Company?
- Should the Company use the IT firm it has an ongoing support relationship with to conduct the forensic investigation?
- How much is this going to cost? Who approves?
- What, if anything, is the amount that the Company is willing to pay to get its data back and prevent the release? Who decides?
- What is the Company's operational status?
- How much data was taken? What is the data?

Initial Notifications

- Who does the Company notify?
- Who does the Company NOT notify?

Company notifies its Insurance Carrier, immediately begins working with counsel and a forensic investigator to assess the scope of the incident and identify options to recovery. Company notifies law enforcement.

Negotiator initiates contact with TA

Negotiator reaches out to the Threat Actor (TA) who is demanding payment of 10 bitcoin to provide a decryption key to restore the network.

TA sends 5 sample files to "prove" they have been in the network and mean business and threatens to publish all data unless it is paid

The files include sensitive information related to Company employees.

Some of the files contain employee PII.

What is the Company's priority?

Does the Company have any obligation to provide notice?

Investigation Continues

- What steps should IT take with respect to the 5 files?
- If you are able to identify the source of the files, what are the next steps?
- Would the source of the files impact the willingness to pay more to the threat actor? Why or why not?
- Is there a data breach as to any of the 5 files?

Impact Becomes Clearer

The Company working in conjunction with the forensic investigator, determines that the backups they were depending on for recovery were impacted by the TA and are not viable. Unless a deal can be reached to acquire a decryption key, the Company will likely lose vital files from several departments including human resources.

Your investigator negotiates to (1) gather additional intelligence; and (2) attempt to reduce the extortion demand to a more acceptable amount.

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TA Applies Leverage

- The threat actors become frustrated with the pace of negotiations and do the following:
  - Start calling employees and leaving messages about what will happen if payment is not made.
  - Launch DDOS attacks to shut down Company website
  - Email employees
- Employees flood HR with calls and are very concerned.
- What do you tell employees?
- What do you tell customers about the website?
- What if anything can be done?

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TA Leaks Some Sensitive Company Data on the Dark Web

- In order to incentivize payment, 15 Company files are posted on the Dark Web by the TA.
- TA demand reduced to $430,000.
- Does Company pay?
- Does cyber insurance cover all or a portion of payment?
- Who makes this decision?
- Company realizes that it cannot make payroll because all systems are down. What is the back up plan?

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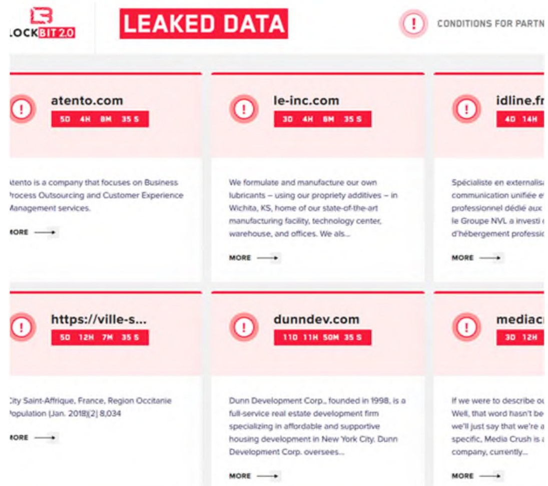
Data Released

- The files include:
  - Information provided in litigation subject to a confidentiality order
  - PII of employees
  - Deal documents related to sale of a nursing home facility



Media

- Local television and newspapers are demanding statements about the ransomware attack. The lead story on the 12:00 news is “Company Shut Down – Ransomware Attack Stops them in their Tracks”
- Numerous other media sources including Krebs on Security begin publishing articles that your data was subject to unauthorized access.

An employee who started last month is trying to handle communications.

Company Customers

- Company customers are starting to call with questions about the incident and the security of their data.
- The AG is calling and wants to know how the attack happened and why they was not told sooner.

Employees are still unable to work and unsure how to respond to the calls.

Logistics

- The Company decides to pay the ransom because it believes it cannot recover the data from damaged backups and it is concerned about sensitive Company being published on the dark web. Who makes this decision?
- What is the recovery time if decrypting?
  - A. 1 hour
  - B. 1 day
  - C. 1 week
  - D. 2 weeks
  - E. Never
- Who is responsible for coordinating restoration?
- What is the most critical system to restore first?
- When did you last test recovering from backups?

If You Decide to Pay Ransom (Mechanics)

- Investigation firm or subcontractor handle all negotiations with TA
- During initial negotiations, the negotiator provides TA with sample of encrypted files to prove that TA can decrypt
  - Encrypted files need to be innocuous. (Do not send file with PII in it)
- Negotiator provides file names to TA to prove that they actually have records.
- Company facilitating payment to the threat actor verifies that payment is not going to a country or group on the US restricted list as required by the Office of Foreign Asset Control (OFAC) advisory
- Payment in bitcoin is made by 3rd party after receipt of funds from the Company. There are typically additional charges associated with facilitating the payment.

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If You Decide to Pay Ransom (LEGAL)

- Payment of a ransom **does not** relieve an organization of its obligation to provide notice pursuant to applicable breach notification laws when there is forensic evidence that unencrypted, personal information has been acquired, removed, or exfiltrated by the threat actor, or where there is evidence of access to personal information in jurisdictions that define a breach as access to personal information.
- Regulators have taken the position that a ransom payment to a threat actor who has promised to delete exfiltrated personal information does not relieve that organization of its obligation to provide notice pursuant to applicable breach notification laws

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Notifications

- Your investigation finds that the threat actors removed employee payroll data for the last 12 years which includes SSNS and financial information and customer financial information.
- How would you determine this?
- Who would review records?
- Who would send notice?
- Who would mail the notices?
- Who would handle calls from notice recipients?

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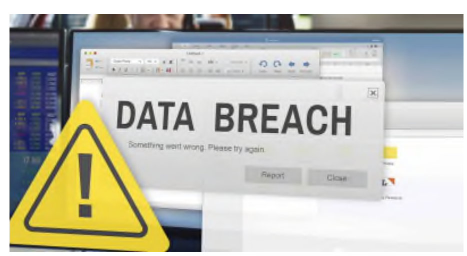
Missing Addresses

- The Company cannot locate addresses for over 2500 people who need to be notified
- As a result the Company needs to have website and media notice in addition to written notification



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Litigation Woes

- Class Action Solicitations for a case against the Company start popping up on the internet
- Within a week the Company is named as a defendant in a class action filed by one of the leading class action firms

Final Takeaways

- Have a strong, clearly written Incident Response Plan
- Identify your Incident Response Team prior to an incident
- Test Incident Response through cyber tabletop exercises
- Understand your cyber coverage before an incident – who and how to report, limits on ransom payments, vendors that you can engage, crisis communications, counsel, etc.
- Viability and ability to recover from backups
- Regulatory and contract notification requirement
- Never ignore warning signs. Better to be overly cautious than have a ransomware attack.

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ALLEGHENY COUNTY ASSESSMENT UPDATE

Presented by: Kimberly S. Tague

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Kimberly Tague assists clients with real estate transactional matters, including sales, acquisition, development, financing, leasing, zoning, land use, easements, title issues and clearance, licenses, and air space transfers. She also advises on real estate tax assessment and real estate tax exemption matters, including valuation appeals and property tax exemption applications, hearings, and appeals. Kimberly has extensive experience with homeowners' associations assisting with the development, creation, management, and disputes associated with planned communities and condominiums and advising associations with governance challenges, elections, collections matters and disputes with the developer and neighbor to neighbor disputes. Kim is an experienced trial attorney and has litigated cases for clients with real estate litigation matters, including condominium and homeowners' association disputes, title matters, boundary disputes, construction claims, eminent domain cases, and real estate development disputes.

Allegheny County Assessment Update

Presented by: Kimberly S. Tague

Pennsylvania's Base Year System

- Base-year system
  - Instead of reassessing property values annually or on a mandatory schedule, each county establishes values as of a specific date – the Base Year
  - This freezes property assessments to a “base year,” rather than adjusting for current values periodically
  - Allegheny County’s base year is 2012, with the last county-wide reassessment taking place in 2013

Base Year System is Unique to PA

- More common to have a state law that requires counties to perform periodic countywide reassessments
- Because of this many PA counties go decades without a reassessment

Common Level Ratio Factor

- Common Level Ratio (CLR)
  - A statewide mechanism meant to bridge the gap between the base year and actual current market values
  - How does it work?
    - Base year assessment multiplied by CLR is supposed to equate to current fair market value
    - Shows how closely a county's base year assessments match actual current market values

Used in assessment appeals to determine value and in transfer tax calculations

State Tax Equalization Board

- State Tax Equalization Board (STEB)
  - The state board that certifies each county's CLR annually

How does STEB calculate the CLR?

- median of individual sales ratios for arm's length transactions in a county in the past year

Published annually in July of each year

CLR's for PA Counties - 2026

- Allegheny: 1.99 50.14%
- Beaver: 1.34 74.6%
- Butler: 16.67 5.99%
- Westmoreland: 11.49 8.7%
- Washington: 1.47 68%
- Bucks: 17.86 5.56%
- **The Calculation:** The factor is the mathematical reciprocal of the percentage ratio (1 ÷ CLR × 100 = %).
- The larger the CLR the further away from actual value

Allegheny County CLR Progression

- 2017: 87.5%
- 2018: 86.2%
- 2019: 87.5
- 2020 (first certified): 81.1%
- 2020 (corrected): 63.5%
- 2021: 63.6%
- 2022: 54.5%
- 2023: 52.7%
- 2024: 50.14%
- 2025: 49.3%
- 2026: 50.14%

Allegheny County Litigation

Gioffre Case: GD 21-007154

- Gioffre et al., v. Fitzgerald et al.
- Judge Alan Hertzberg;
- Filed: 2021
- 9 plaintiffs/property owners represented by John Silvestri
- Defendants are County Executive, County Manager, and Allegheny County Board of Assessment Appeals and Review (BPAAR)

Plaintiffs - alleged that the county had artificially inflated the numbers that were reported to STEB which resulted in an artificially high CLR

Plaintiffs – Wilkinsburg homeowners property tax bills doubled or tripled compared to neighbors because they purchased in 2020

Gioffre Fallout

- Triggered the collapse of the CLR from an inflated 81.1% down to a corrected 63.5%, opening the door to a wave of successful owner appeals that continues to reshape county, city, and school district revenue today.

Gioffre Appeal

- Gioffre v. Allegheny County Board of Property Assessment, Appeals and Review
  - Docket No.: 424 C.D. 2023
    - Commonwealth Court of Pennsylvania, Civil Division
    - Judges McCullough, Ceisler and Wallace; Argued Feb. 6, 2024; decided April 22, 2024
  - Commonwealth Court held that the CLR in effect when an appeal was filed governs, not a later, more favorable ratio published after the fact.
  - Confirmed that CLR corrections cannot be retroactively applied to appeals already in the pipeline.

School District of Pittsburgh v. Allegheny County and Sara Innamorato

- Docket No.: GD-24-4041
  - Court of Common Pleas of Allegheny County, Civil Division
  - Judge Kenneth G. Valasek, S.J. (specially presiding);
  - Filed April 8, 2024; Opinion dismissing complaint dated Feb. 13, 2025
- This case was dismissed for lack of standing
- This ruling did not touch whether Allegheny County's assessments are constitutional, it only closed off the School District's path, clearing the way for individual taxpayer suits (like *Laun*) to pursue the same relief through a different plaintiff.

Flavia Laun v. Allegheny County

- Docket No.: GD-25-000924
  - Court of Common Pleas of Allegheny County, Civil Division
  - Judges Hertzberg, McGinley, and Valasek; Filed January 29, 2025
- Flavia Laun, an aggrieved homeowner pursuing the identical relief (a countywide reassessment) that survives where the School District's suit failed.
- Trial is set for September 1, 2026, with Council Bill 13892-26 already entered into the record.

Skyscraper Value Decreases

The U.S. Steel Tower

- City of Pittsburgh SD/Property Owned by 600 GS Prop LP v. Board of Property Assessment Appeals and Review of Allegheny County
  - Docket No.: BV 24-000587
    - Court of Common Pleas of Allegheny County, Civil Division
  - 600 Grant Street
  - Judge Alan Hertzberg, A.J. (Administrative Judge, Civil Division)
  - City of Pittsburgh, 2nd Ward, Block & Lot 2B51
  - Originally assessed at $233 million

Year	Total Assessed / Agreed Fair Market Value
2022	$151,955,500
2023	$141,573,600
2024	$151,955,500
2025	$151,955,500
2026	$151,955,500

Tower at PNC Plaza

- City of Pittsburgh SD/Property Owned by PNC Bank National Association v. Board of Property Assessment Appeals and Review of Allegheny County
  - Docket No.: BV 24-000414
    - Court of Common Pleas of Allegheny County, Civil Division
  - 300 5th Avenue
  - Judge Alan Hertzberg, A.J. (Administrative Judge, Civil Division)
  - City of Pittsburgh, 2nd Ward, Block & Lot 1H256
  - Originally assessed at $147 million

Year	Total Assessed / Agreed Fair Market Value
2022	$75,430,600
2023	$73,894,000
2024	$76,255,900
2025	$70,294,900
2026	$69,563,900

1 PPG Place

- HRLP Fourth Avenue LLC v. County of Allegheny, City of Pittsburgh, City of Pittsburgh School District
  - Docket No.: BV 25-001335
    - Court of Common Pleas of Allegheny County, Civil Division
  - 1 PPG Place
  - City of Pittsburgh, 2nd Ward, Block & Lot 1H30
  - Originally assessed at $179 million

Year	Total Assessed / Agreed Fair Market Value
2025	$114,359,000
2026	$114,359,000

Systems of Inequity

Welcome to the Neighborhood

- School districts across Allegheny County file thousands of property tax appeals each year aimed specifically at recent homebuyers, seeking to raise assessments based on sale price
- School Districts use the fair market value instead of the 2012 frozen base-year valuation, which produces sharply higher assessments than an identical, unsold neighboring home
- Critics say this violates the PA Constitution's Uniformity Clause by singling out recent buyers

Overwhelming Volume of Appeals

- Over 6,000 appeals had been filed for 2026 as of April 21, with more than half filed by property owners themselves.
- In 2022, 12,659 appeals were filed by the March 31 deadline out of 580,000+ total parcels countywide
- Non-appealing taxpayers indirectly subsidize the appeal infrastructure used by those who do appeal
- Simultaneously, Pittsburgh Public Schools faces a $12.2 million deficit for the 2026 fiscal year which is tied in part to assessment volatility

Looking Forward

ALLEGHENY COUNTY BILL NO. 13892-26

- Introduced on March 24, 2026
  - Brought by Council Members Dan Grzybek, Lissa Geiger Shulman, and Bethany Hallam,
- Amends Article 210 of the county's Administrative Code, "Assessment Standards and Practices," to provide for periodic countywide reassessments "once every three years, with the first . . . to take place in 2028."

County Council public hearing was held July 29, 2026

Next steps: Committee on Assessment Practices vote, then a full Council vote, then presentment to County Executive Sara Innamorato for signature or veto.

PA SENATE BILL 567

- Introduced on July 31, 2025
  - Sponsored by Senators Wayne Fontana, Tim Kearney, Jay Costa, and Lindsey Williams
- Amends Titles 16 (Counties) and 53 (Municipalities Generally) of the Pennsylvania Consolidated Statutes to reform the state's property assessment system.
- Uniform 5 year reassessments
- Enhanced STEB oversight
- Dedicated funding and operating reserves for counties for reassessments
- Last Action: Referred to Local Government Committee on July 31, 2025

Thank you & Questions

Key Takeaways

The 2012 base year valuation is over a decade behind.

A countywide reassessment is likely coming, it is just a matter of when.

Let's stay connected

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ECKERT SEAMANS

PRACTICE BEFORE THE PENNSYLVANIA SUPERIOR COURT

Presented by The Hon. Judith Ference Olson and Scott D. Cessar

The Hon. Judith Ference Olson | Superior Court of Pennsylvania

Judge Judith Ference Olson served as a private mediator and arbitrator for the United States District Court for the Western District of Pennsylvania. She was inducted as a fellow of the Academy of Trial Lawyers of Allegheny County where she served as Chairperson of the Academy's Federal Court Committee and as a member of the Board of Governors. She was also named as a Pennsylvania Super Lawyer® and one of Pennsylvania's top 50 women lawyers.

In 2008, Judge Olson was nominated by Governor Edward G. Rendell for a position on the Court of Common Pleas of Allegheny County. She was unanimously confirmed by the Pennsylvania Senate. On November 10, 2008, she took the oath of office and was assigned to the Civil Division of the Court of Common Pleas of Allegheny County.

On November 3, 2009, Judge Olson was elected to a ten-year term on the Superior Court of Pennsylvania. She was retained for another ten-year term in 2019. Her chambers are in Pittsburgh.

Scott D. Cessar | Chief Executive Officer | Pittsburgh
P: 412.566.2581 | scessar@eckertseamans.com

Scott Cessar serves as Chief Executive Officer of Eckert Seamans. He has spent his entire +38-year career at Eckert Seamans and previously served for over 15 years as both head of the Pittsburgh office of the Firm and as head of its Construction and Alternate Dispute Resolution Group.

Scott maintains an active litigation and counseling practice representing several publicly traded companies, and numerous privately held companies, in litigation across the country. In the last several years, he has represented clients in matters in over 14 states, including in a 40 day trial in Corpus Christi, Texas and arguing before the Pennsylvania Supreme Court.

Update on Practice Before the Pennsylvania Superior Court

ECKERT SEAMANS

Our Presenting Team

Honorable Judith F. Olson
Judge of the Pennsylvania Superior Court

Scott D. Cessar
CEO of Eckert Seamans Cherin & Mellott, LLC

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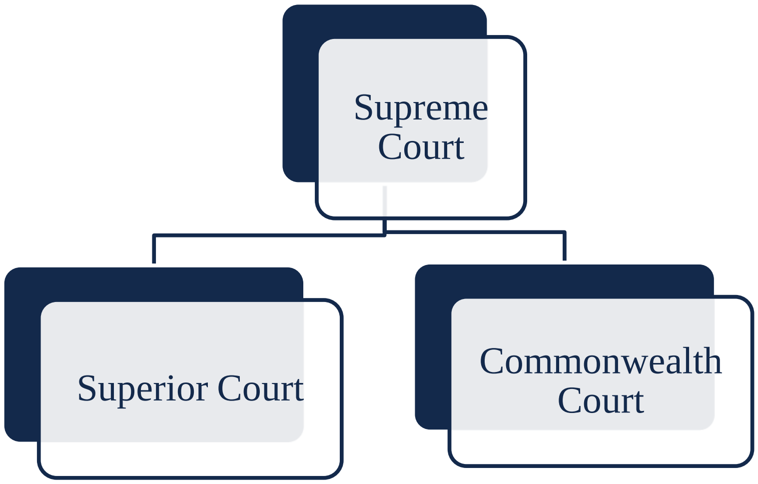
Pennsylvania Appellate Courts



Judges of the Pennsylvania Superior Court

President Judge

Judge Anne E. Lazarus

Judges

- Judge Mary Jane Bowes
- President Judge Emeritus Jack A. Panella
- Judge Judith Ference Olson
- Judge Victor P. Stabile
- Judge Alice Beck Dubow
- Judge Deborah A. Kunselman
- Judge Carolyn H. Nichols
- Judge Mary P. Murray
- Judge Maria McLaughlin
- Judge Megan McCarthy King
- Judge Megan Sullivan
- Judge Jill Beck
- Judge Timika Lane
- Judge Brandon P. Neuman

Senior Judges

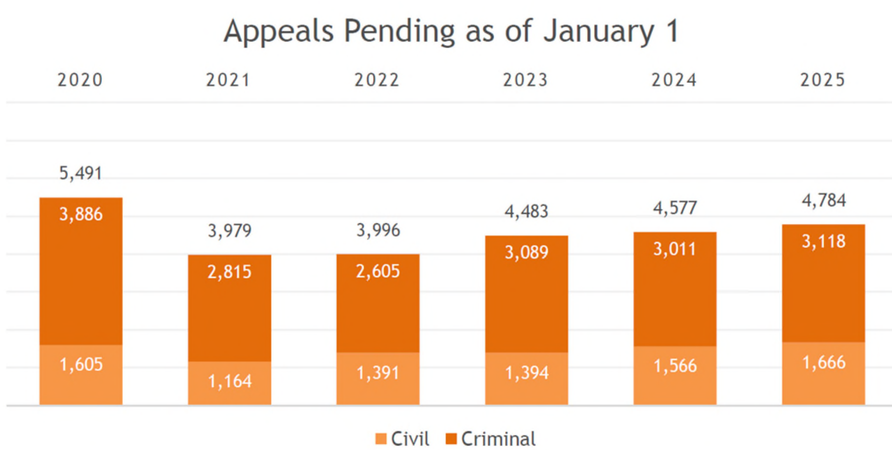
- President Judge Emeritus Correale F. Stevens
- President Judge Emeritus John T. Bender
- President Judge Emerita Kate Ford Elliot

Common Superior Court Civil Case Appeals

- Personal injury and negligence
- Contract and business disputes
- Estate and probate litigation
- Real estate disputes
- Family law (custody, divorce, support)

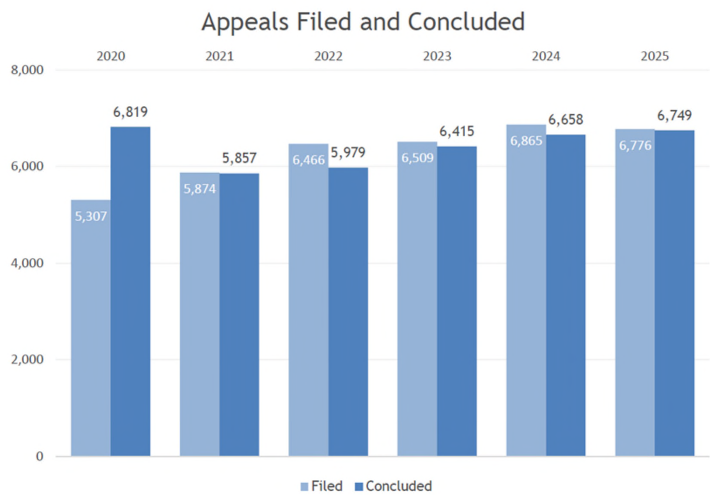
What goes to Commonwealth Court?

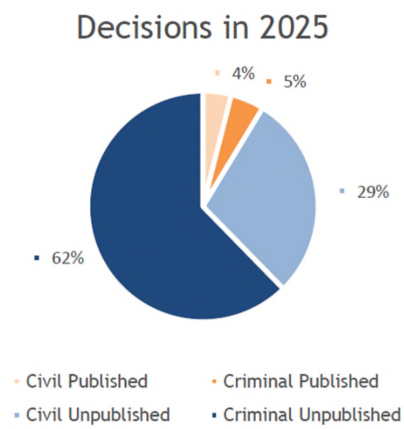
Caseload of the Pennsylvania Superior Court



Superior Court of Pennsylvania Report of Statistics for 2025

Caseload of the Pennsylvania Superior Court





Superior Court of Pennsylvania Report of Statistics for 2025

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Operating Procedures of the Superior Court

210 Pa. Code Ch. 65

- The Superior Court generally decides appeals through three-judge merit panels
- Most appeals proceed through an internal process involving:
  - Assignment of a panel
  - Internal conference
  - Opinion assignment
  - Circulation and review by panel members
  - Filing of majority, concurring, or dissenting opinions
- Motions may be resolved by a single judge or motions panel, depending on the nature of the request
- Reconsideration and en banc review are governed by specific internal procedures and are granted only in limited circumstances

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Using Non-Precedential Opinions

210 Pa. Code § 65.37

- Pursuant to Pa. R.A.P. 126(b), non-precedential decisions filed **after** May 1, 2019 may be cited for their **persuasive value**
- Non-precedential decisions filed **before** May 2, 2019, **shall not** be relied upon or cited unless:
  - Relevant under the doctrine of the law of the case, res judicata, or collateral estoppel, and
  - Relevant to a criminal action or proceeding because it recites issues raised and reasons for a decision affecting the same defendant in a prior action or proceeding
- When do you find the use of non-precedential opinions appropriate or compelling?
- What factors drive the Court to designate an opinion as non-precedential?

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Tips on Brief Writing

- Read (and ruthlessly follow) the Court's formatting rules (Pa. R.A.P. 124, 2101-2189)
- Pick your winning arguments—bad arguments weigh down good ones
- Short and pithy is best
- Use the record aggressively
- Be intentional when crafting Questions Presented
  - "When I read an appellant's brief that contains more than six points, a presumption arises that there is no merit to *any* of them." –Ruggero J. Aldisert, J. "Winning on Appeal: Better Briefs and Oral Argument," 129 (2d ed. 2003)

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Tips on Oral Advocacy

- When to submit on the briefs or argue before the Court?
- Time allotment for argument:
  - Cases on expedited list: 5 minutes for each side
  - Cases on standard list: 15 minutes for each side
- How should a party split its argument time?
- How to handle a hot bench?
- When is the right time to sit down?
- PCN Broadcasting

Panel Composition – Selection

- 210 Pa. Code 65.5 – Panels
  - The President judge shall appoint the panels, assign cases to the panels, and designate the time, date, and place in which the panels shall sit.
- How does the President judge decide the composition of a panel?
- Does the expertise of a judge play a role in selecting a panel?

Opinion Writing

- At what point is the opinion assigned to an author?
- How does circulation typically work with a three-judge panel? Does circulation ever result in a change of disposition?
- What is the process for writing concurrences/dissents? How often does a proposed concurrence or dissent influence revisions in the majority opinion?

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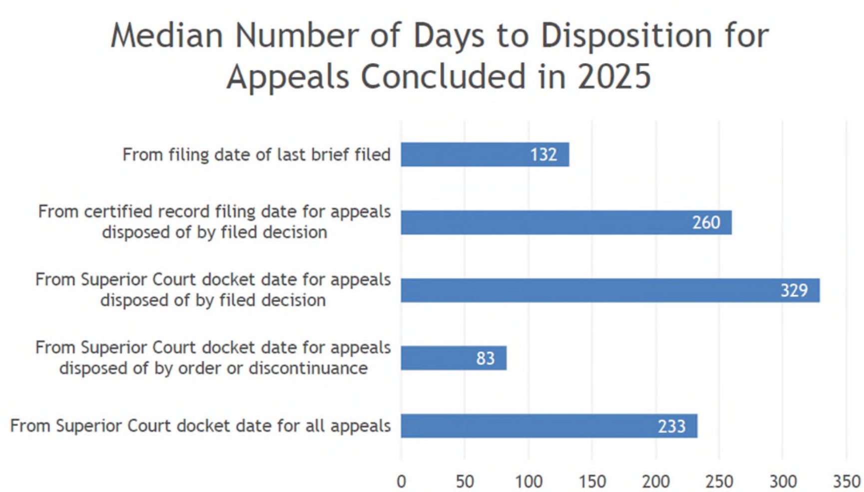
Timing of Disposition



Superior Court of Pennsylvania Report of Statistics for 2025

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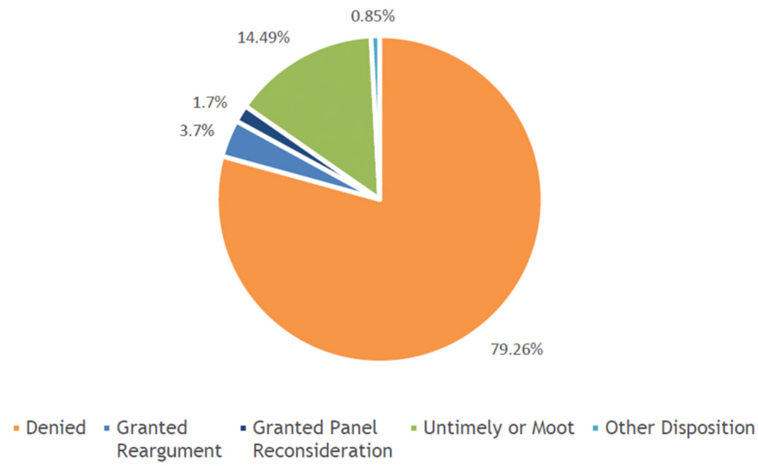
Panel Reconsideration
210 Pa. Code § 65.38

- What are the most persuasive reasons for a merits panel to grant panel reconsideration?
- What distinguishes a strong application for reconsideration from one that merely reargues points already considered in the initial appeal?
- Filing a petition for reconsideration and reargument simultaneously

Reargument En Banc
210 Pa. Code § 65.38

- Section 65.28(D) states that an en banc reargument requires "compelling reasons." What types of issues are most likely to satisfy that standard?
- Among the listed grounds for en banc review, which do you see most frequently: panel conflict, overlooked authority, misapprehended facts, or issues of public importance?
- What makes an issue sufficiently important to have a significant impact on public policy?
- How are the nine judges selected for the en banc panel?

Applications for Reconsideration or Reargument in 2025



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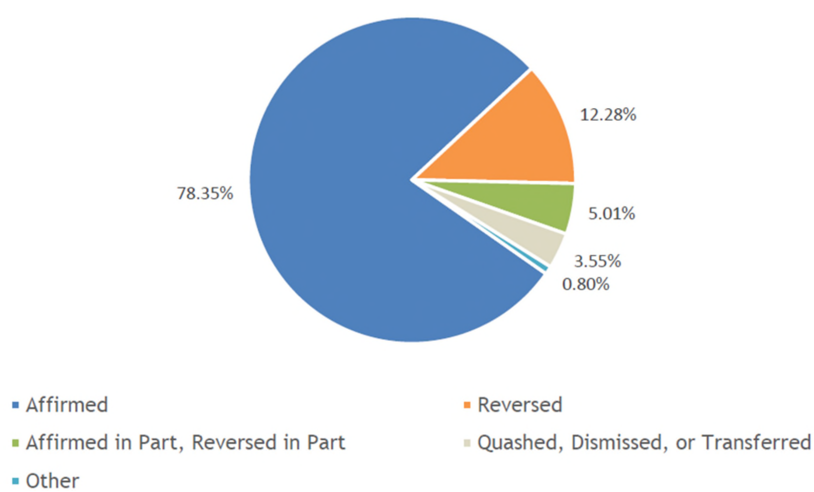
Filed Decisions in 2025

Categorized by Action



Superior Court of Pennsylvania Report of Statistics for 2025

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Motion Practice Before the Superior Court

- What factors determine whether a motion is handled by a single judge or referred to a motions panel?
- What are the characteristics of the most effective appellate motions?
- What motions related procedural errors most frequently frustrate the Court's ability to reach the merits?
- What does the Court expect to see in a true emergency application?
- What is the most common mistake experienced appellate lawyers make in motions practice before the Superior Court?

Artificial Intelligence and Practice in the Pennsylvania Appellate Courts

Thank you & Questions

COURTROOM FILINGS: ETHICS, PITFALLS, AND BEST PRACTICES

Presented by: Louis A. DePaul

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Lou DePaul concentrates his practice on business litigation. His practice and experience cover a broad range of business litigation, including complex commercial litigation, real estate litigation, class action litigation, products liability litigation, intellectual property litigation, bankruptcy litigation, and employment disputes. Lou has litigated cases in state, federal, bankruptcy, and appellate courts in multiple jurisdictions and his experience extends to commercial arbitrations and mediation.

Court Filings: Ethics, Pitfalls, and Best Practices

Presented by: Louis A. DePaul

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Presentation Overview

- Attorneys have a professional and ethical duty to ensure that every court filing complies with the applicable procedural rules, filing requirements, and ethical obligations. *See* Pa.R.P.C 1.1 (Competence); Pa.R.P.C 1.3 (Diligence); Pa.R.P.C 3.3 (Candor).

Presentation Overview

- This session will examine the rules governing court filings and:
  - Identify common filing mistakes;
  - Review ethical obligations in court filings; and
  - Explain consequences of non-compliance.

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Following the Rules

Protection of Confidential Information

– Pursuant to 204 Pa. Code § 213.81, parties must certify in each filing that the filing does not contain any confidential information or documents, even if the filing contains no confidential information.
– Confidential information must be redacted.
– Where a filing must contain confidential information or documents, the filing must contain a confidential information or document form.

Compliance with Confidential Information Requirements

- **What is Considered Confidential Information?**
  - Social Security Numbers;
  - Financial Account Numbers (except an active financial account number may be identified by the last four digits when the financial account is the subject of the case);
  - Drivers license and state ID;
  - Minors names and DOB (except when charged as a criminal defendant); and
  - Abuse victim information in certain cases.

Compliance with Confidential Information Requirements

- **What is Considered a Confidential Document?**
  - Financial source documents;
  - Minor’s educational records;
  - Medical/psychology records;
  - Children and youth services records;
  - Marital property inventory (Pa.R.C.P. No. 1920.33); and
  - Income and expense statement (Pa.R.C.P. No. 1910.27(c)).

Certification Overview

- Always verify that you have included all required certifications.
- Required certifications vary based upon court, judge, and type of filing/relief requested.
  - Examples:
    - Certifications regarding AI;
    - Certificate of service;
    - Certificate of compliance with confidential information requirements;
    - Certificate of good faith effort to resolve; and
    - Certificate of conferral (discovery motions, some scheduling motions).

Certifying Ethical AI Use in Filings

- **Three Pennsylvania Courts of Common Pleas have adopted such requirements**:
  - Both **Westmoreland** County and **Lancaster** County require the party submitting a pleading to check one of two boxes:
    - (1) GenAI was not used in the filing, or
    - (2) GenAI was used in the filing. If the party used GenAI in their filing, they must also provide the name of the GenAI tool, the portions of the document GenAI was used on, and confirmation that a human verified all facts, quotes, and legal references.
  - **Butler** County requires an attestation that no portion of the filing has been drafted by GenAI, or any language drafted by GenAI has been checked for accuracy by a human.

AI Certifications: Check Chambers Rules

- It is also important to check chambers rules regarding any AI requirements.
- For example:
  - Eastern District Judge Michael M. Baylson requires a certification that each citation has been verified as authentic.
  - Eastern District Judge Kelley B. Hodge's judicial procedures state that all parties using GenAI must comply with court rules and the Federal Rules of Civil Procedure.
  - Middle District Judge Karoline Mehalchick requires all documents to be filed with a Certificate of Use of Generative GenAI.

AI Certifications: Failure to Comply

- Failure to use AI ethically is sanctionable.
- Sanctions in AI cases have included:
  - Monetary payments;
  - Payment of opposing party's fees;
  - Required apologies and notifications to clients; and
  - Public Reprimand.

AI Certifications: Failure to Comply

1,227 FABRICATED CITATIONS AND COUNTING: INSIDE THE AI HALLUCINATION CRISIS HITTING COURTS WORLDWIDE

APRIL 2, 2026

From a DOJ attorney fired for filing AI-fabricated quotes to the Sixth Circuit imposing $30,000 in sanctions, courts are confronting an epidemic of AI-generated fake legal authorities. With over 1,200 documented cases worldwide, every litigation team needs to understand the risk -- and act on it now.

BIGLAW

Sullivan & Cromwell Files Emergency 'Please Don't Sanction Us For All These AI Hallucinations' Letter

When the firm that represents OpenAI can't even check its own cite-checking.

By Joe Patrice on April 21, 2026 3:00 pm Share

Trouble with AI 'hallucinations' spreads to big law firms

By Sara Merken

May 23, 2025 5:01 PM EDT · Updated May 23, 2025

Lawyers Sanctioned Over AI Use on Both Sides in Federal Case

June 9, 2026, 10:05 AM EDT

Daniel Seiden
Senior Reporter

Lawyer Sanctioned $109,700 for AI-Generated Court Filings

Monica Rysavy, Ph.D., Ed.D.
3mo

A lawyer in Oregon just got hit with $109,700 in sanctions.
Not for losing a case. For filing a brief full of cases that don't exist.
AI wrote them. He submitted them. The court caught it.

Some judges move beyond fines to keep lawyers' AI errors in check

By Sara Merken

September 16, 2025 12:31 PM EDT · Updated September 16, 2025

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Checking For Compliance

Checking for Compliance

Federal/State Rules

Local Rules

Rules of the Assigned Judge

Checking for Compliance

– Filing requirements vary significantly from jurisdiction to jurisdiction and even from judge to judge.
– Judges may impose specific requirements, such as:
  - Required form and content in proposed orders;
  - Sending courtesy copies to the court ;
  - Specific requirements for motion practice and briefing;
  - Timelines, scheduling, and response deadlines; and
  - Trial procedures.

Checking for Compliance: Local Requirements

- **Allegheny County Examples**
  – <u>Judge Nicola Henry-Taylor</u>
    - Courtesy copies required for all scheduled proceedings.
    - Email courtesy copies at the same time documents are served on opposing counsel.
    - Subject line: “Courtesy Copy — Chambers.”
    - Proposed orders must identify The Honorable Nicola Henry-Taylor beneath the signature line.
  – <u>Judge Patrick Connelly</u>
    - Motion-related email subject lines must include: Contested, Uncontested, or EMERGENCY; Case name; Docket number
    - Email body must include: Current trial/arbitration date (or indicate request for initial date); Motion title; Motion presentation date
    - Incomplete emails may be rejected.

Checking for Compliance: Local Requirements

- **Western District of Pennsylvania Example**
  - Judge Mark Hornak
    - Courtesy paper copy required when a brief and appendices/exhibits total 50+ pages.
    - Materials must be:
      - 3-hole punched
      - Placed in black binder(s) no more than 3 inches thick
      - Labeled with case name, case number, filing party, subject matter, and corresponding ECF document number

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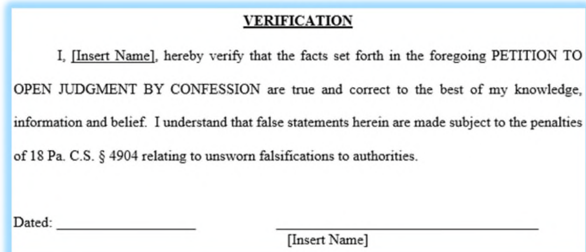
Verification

Verification of Pleadings

- **What is verification?**
  - Pursuant to Pa.R.C.P. 1024(a) Every pleading containing an averment of fact not appearing of record in the action or containing a denial of fact shall state that the averment or denial is true upon the signer's personal knowledge or information and belief and shall be verified.



VERIFICATION

I, [Insert Name], hereby verify that the facts set forth in the foregoing PETITION TO OPEN JUDGMENT BY CONFESSION are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsifications to authorities.

Dated: ______________ ______________________________

[Insert Name]

Verification of Pleadings

- **Who can verify?**
  - Under Pa.R.C.P. 1024(c), the general rule is that the “verification shall be made by one or more of the parties filing the pleading.”
- **What is the effect of verification?**
  - In the instance that a verifier attests to false information in the pleading, they may face misdemeanor liability and monetary sanctions pursuant to 18 Pa.C.S.A. § 4904 pertaining to unsworn falsifications.

Filing: Beware of Triggering Deadlines

Always Check Applicable Rules to See if Filing Triggers a Deadline

- **Examples:**
  - In federal court, the filing of the initial pleading triggers the deadline to file the corporate disclosure statement
  - Filing Preliminary Objections may trigger timeline to file briefing.
    - This changes county by county. In **Allegheny County**, briefing must be submitted with Pos, in **Westmoreland County**, briefing may be submitted after.
  - Certain filings trigger notice requirements to parties, or interested third-parties.
  - Filings often trigger response deadlines from the opposing party and these should be calendared.

Filing Checklist: Final Check

Filing Checklist: Final Check

Content

- Verify that AI has been used ethically in the pleading.
- Required certifications are included and signed.
- Proposed Order is included if required.
- Confidential material has been properly redacted.
- Internal cross-references (e.g., section numbers, exhibit references, page references) are correct.

Filing Checklist: Final Check

Formatting

- All pages are numbered correctly and sequentially.
- Filing complies with applicable page limits.
- The required font type, font size, line spacing, and margins have been used.
- Headings and subheadings are formatted consistently.
- No orphan headings.
- Justification.
- Hyperlinks (*if permitted*) are functional.
- Create bookmarks in Adobe to mark exhibits.

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Filing Checklist: Final Check

Submission

- Ensure proper format (Word/PDF).
- Check whether the filing should be submitted as one document or as separate documents.
- Check to see if you are required to send copies to the court and applicable procedures for doing so.
- Remove metadata.

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Thank you & Questions

Key Takeaways

- Always verify the governing state/federal, local, and judge rules before filing.
- Rules are constantly evolving.
- Failure to comply with filing requirements can be seen as unethical and could be sanctionable.

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TRADE SECRET LITIGATION: FROM THE FUNDAMENTALS TO THE NEWEST DEVELOPMENTS

Presented by: F. Timothy Grieco and Scott A. Bowan

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Tim Grieco is Chair of Eckert Seamans' Construction and Alternate Dispute Resolution Groups. He focuses his practice on construction and commercial litigation, representing contractors, owners, design professionals, manufacturers, and other businesses in complex disputes. Tim has extensive experience in jury trials, arbitrations, and appeals involving construction delays, breach of contract claims, trade secret litigation, professional negligence, and shareholder disputes. He has secured multimillion-dollar verdicts and significant awards in state and federal courts, including matters involving utilities, manufacturers, educational institutions, and industrial contractors. Tim regularly counsels clients through high-stakes construction and commercial disputes and has successfully argued cases before appellate courts in Pennsylvania and Ohio

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Scott Bowan is a litigator with over 20 years of experience representing clients in disputes across the country. He concentrates his practice in the areas of insurance recovery, construction litigation, and commercial litigation.

Scott has extensive expertise representing policyholders in insurance recovery disputes. His matters have involved property damage claims, asbestos liabilities, environmental claims, product liabilities, product recall losses, water damage claims, and aviation losses.

Trade Secret Litigation:
From the Fundamentals to the Newest Developments

Presented by: F. Timothy Grieco and Scott A. Bowan

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Protection of Intellectual Property

- Patents
- Trademarks
- Copyrights
- Trade secrets

Trade Secrets - Laws

Defend Trade Secrets Act

- 18 U.S.C. § § 1831, et seq.
- Civil remedy: 18 U.S.C. § 1836

State laws

- Uniform Trade Secrets Act
- Pennsylvania Uniform Trade Secrets Act
  - 12 Pa. C.S. § § 5301-5308

Trade Secrets - Defined

(1) Independent Economic Value

The information derives independent economic value from not being generally known to, and not being readily ascertainable through proper means by, another person who can obtain economic value from the disclosure or use of the information.

(2) Reasonable Measures to Keep Secret

The owner has taken reasonable measures to keep such information secret.

Trade Secrets - Defined

Not required:

- Revolutionary
- Patentable
- Technical

Trade Secrets - Defined

Very broad

- Formulas
- Source code
- Manufacturing processes
- Customer lists
- Pricing and margin information
- Marketing plans
- Business strategies
- Product roadmaps

Trade Secrets - Defined

The key questions are:

- Does the information provide competitive value?
- Has the company treated it as confidential?

Reasonable Measures

- Not defined
- Case specific
- "Sufficient secrecy" – not "absolute secrecy"
  - Uni-Sys., LLC v. United States Tennis Ass'n, Inc., 350 F. Supp. 3d 143 (E.D.N.Y. 2018)

Reasonable Measures – In Practice

- NDAs or Confidentiality Agreements
- Password-protected systems
- Need-to-know
- Audit trails
- Employee lifecycle
  - Onboarding
  - Reminders
  - Exit interviews

Remedies - DTSA

(1) Injunctive relief
(2) Monetary damages
(3) Exemplary damages
Up to 2x compensatory damages
(4) Attorneys' fees
(5) Civil seizure

Remedies – DTSA – Monetary Damages

Two measures:

1. Actual loss plus unjust enrichment (that is not already include in actual loss)
   - Includes a defendant's avoided research and development costs

2. Reasonable royalty

DTSA – Whistleblower Protection

Immunity.--An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that--

(A) is made--

(i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and

(ii) solely for the purpose of reporting or investigating a suspected violation of law; or

(B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal.

18 U.S.C. § 1833(b)(1)

DTSA – Whistleblower Protection

Use of trade secret information in anti-retaliation lawsuit.--An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual--

(A) files any document containing the trade secret under seal; and

(B) does not disclose the trade secret, except pursuant to court order.

18 U.S.C. § 1833(b)(2)

DTSA - Employer Notice Obligation, 18 U.S.C. § 1833(b)(3)

Notice.--

(A) In general.--An employer shall provide notice of the immunity set forth in this subsection in any contract or agreement with an employee that governs the use of a trade secret or other confidential information.

(B) Policy document.--An employer shall be considered to be in compliance with the notice requirement in subparagraph (A) if the employer provides a cross-reference to a policy document provided to the employee that sets forth the employer's reporting policy for a suspected violation of law.

(C) Non-compliance.--If an employer does not comply with the notice requirement in subparagraph (A), the employer may not be awarded exemplary damages or attorney fees under subparagraph (C) or (D) of section 1836(b)(3) in an action against an employee to whom notice was not provided.

(**D) Applicability.--**This paragraph shall apply to contracts and agreements that are entered into or updated after the date of enactment of this subsection.

DTSA – Common Defenses

- Insufficient secrecy
- Information is publicly available or could be readily ascertained through proper means such as reverse engineering or independent research

Trade Secret Litigation

- Often starts with employee mobility
- A key employee leaves Company A and joins Company B.
  - The employee had access to:
    - Customer relationships
    - Pricing information
    - Product development plans
    - Technical know-how

Trade Secret Litigation

- Company A notices that customers are moving to Company B or that Company B has launched a suspiciously similar product.
  - Questions immediately arise:
    - Did the employee take confidential files?
    - Did the new employer encourage access to sensitive information?
    - Is the employee using protected trade secrets?

- Those questions sit at the heart of many trade secret cases.

Trade Secret Case Filings: On the Rise

- Ten-Year anniversary of Defend Trade Secrets Act
  - on the rise since 2016; COVID drop and rebound

- Over 1,500 filings in federal court in 2025

- Terminated case statistics
  - most settle
  - biggest hurdle is motion to dismiss or summary judgment
  - surprising trial success rate
  - volatile/large verdicts; increased appellate scrutiny
  - punitive damages

Trade Secret Case Filings (cont.)

- Most cases filed in computer hardware and software industry
  - finance, professional services, medical, consumer goods, and technology and logistics
- Artificial Intelligence cases

Appian Corp. v. Pegasystems, Inc., (Va. 2026)

- May 2020: complaint alleged theft of proprietary software
- May 2022: $2.1 billion verdict for unjust enrichment
- Appeal/judgment preservation insurance policy?
  - Appian pays $50 million for policy guaranteeing payment for any reduction under $500 million
- July 2024: Virginia Appeals Court vacates judgment

Appian Corp. v. Pegasystems, Inc., (Va. 2026) (cont.)

- January 2026: Virginia Supreme Court upholds reversal and orders new trial based, in part, on faulty jury instructions
- Damages burden for unjust enrichment remains on plaintiff

Practical Considerations and Tips

- Forum selection: state vs. federal court; different federal circuits
  - pleading standards, differing statutory requirements
  - discovery barriers
  - motions practice; delays
- Preliminary injunction?
  - higher standard
  - cost

Practical Considerations and Tips (cont.)

- Expert retention
  - retain early; can be difficult to locate
  - help define and develop trade secrets and assist with discovery from opponent

- Discovery issues
  - identification of trade secrets; define scope
  - document intensive
  - ESI; increased scrutiny of litigation holds and preservation efforts

Practical Considerations and Tips (cont.)

- Protective order; attorneys' eyes only
  - opens up your technology and information
  - public trial or hearing

- Attorneys' fees for bad faith filing; prevailing party

Defining the Trade Secret with Particularity: A Split of Authority

- Typical standard encountered is reasonable particularity
- Sysco Machinery Corp. v. DCS USA Corp. (4th Cir. 2025)
  - strict approach
  - need to plead trade secret with reasonable particularity so elements can be assessed

Defining the Trade Secret with Particularity: A Split of Authority (cont.)

- Wilbur-Ellis Company v. Gompert (8th Cir. 2026)
  - court rebuffed trade secret descriptions that included only general categories without any specific characteristics of the stolen information
  - court will not allow fishing expedition in discovery
  - cannot claim everything in business is a trade secret
  - also, generalized allegations about security measures, employee downloads, database access, coordinated departures and device resets were not sufficient to show misappropriation
  - cannot just rely on suspicious timing

Defining the Trade Secret with Particularity: A Split of Authority (cont.)

- Quintara Biosciences v. Ruifeng Biztech (9th Cir. 2025)
  - rejected strict standard at early stage for DTSA claim
  - general allegations will suffice
  - factual question typically resolved at summary judgment stage or trial
  - trade secrets are clarified as discovery progresses

Defining the Trade Secret with Particularity: A Split of Authority (cont.)

- Trinseo v. Harper (5th Cir. 2026)
  - broad bundling of trade secrets
  - broad-based approach can also cause damages issues
  - failure to apportion
  - affirmed vacating $75 million verdict for failure to apportion
  - expert tied damages opinion to ALL ten trade secrets

When does the clock start ticking on your trade secret claim?

- Insulet Corp. v. EOFlow, Co. (Fed Cir. 2026)
  - claim starts to accrue when the plaintiff has sufficient evidence to plead a claim, not prove it
  - circumstantial evidence showing defendant's access to trade secret information and similarity between those trade secrets and the infringing product sufficed to start the clock
  - "access plus similarity"
  - overturned $60 million jury verdict
  - dissent equates to inquiry notice standard
  - need to employ early competitive monitoring, including of trade shows, product launches, public technical materials and securities filings

Readily Ascertainable: Whose Burden?

- Comet Tech. v. XP Power (9th Cir. 2026)
  - DTSA puts this burden on the plaintiff
  - legal error to instruct jury that defendant has burden
  - $20 million verdict vacated
  - California's UTSA puts the burden on the defendant

- Impact on venue selection and causes of action pleaded

Unjust enrichment damages: Is actual loss to the Plaintiff necessary?

- Split developing
- Second and Seventh Circuits have ruled need actual loss to the Plaintiff
  - Syntel Sterling v. The TriZetto Group (2nd Cir.)
  - Motorola Solutions v. Hytera Communications (7th Cir.)
- Fifth Circuit has ruled that you do not
  - Tata Consultancy v. Computer Sciences
    - avoided costs can serve as basis for $56 million award to plaintiff with no showing of actual loss to plaintiff
    - U.S. Supreme Court denied cert.
- All agree you cannot double count actual damages and unjust enrichment and that an injunction will cut off unjust enrichment damages

Can an employee steal a trade secret by taking it in their head?

- Citibank v. Mitchell (N.D. Cal. 2024)
  - court finds misappropriation even where trade secrets were not physically or electronically taken, but instead were retained only in memory
  - case involved non-public information regarding details of a client's specific financial holdings and investments (i.e., whether a client holds a "high cash position" and when client accounts are set to mature)
  - defendant used this information to solicit clients

Artificial Intelligence: Changing the Landscape of Trade Secret Litigation

- As noted above, AI is a huge driver of the surge in trade secret cases
- But other impacts loom
  - employees using trade secret information in AI platforms can undermine trade secret status
- AI itself and the ability to easily reverse-engineer the trade secret may provide defendants with an easier path to argue that information was readily ascertainable through proper means

Thank you & Questions

Let's stay connected

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ECKERT SEAMANS

CAN AI OWN A BRAND? ARTIFICIAL INTELLIGENCE AND THE FUTURE OF U.S. TRADEMARK LAW

Presented by: Mark A. Mazza

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Mark Mazza is a registered patent attorney and focuses his practice in the area of intellectual property portfolio procurement, management and development. With a strong technical background in Biology and Chemistry, Mark prepares and prosecutes trademark, copyright, and patent applications in the United States and abroad. In addition to filing applications for intellectual property protection, Mark regularly assists his corporate colleagues with IP related issues and IP due diligence during M&A deals. He also negotiates and drafts IP agreements that include license agreements, assignment agreements, SaaS agreements, software development and evaluation agreements, material transfer agreements, confidentiality agreements, research and development agreements, and consulting agreements.

Can AI Own a Brand?

Artificial Intelligence and the Future of U.S. Trademark Law

Presented by: Mark Mazza

ECKERT SEAMANS

Why This Topic Matters?

- AI Is Changing How Brands Are Created
  - Traditional Process
    - Branding Agency
    - Designers
    - Marketing Team
    - Trademark Counsel
  - AI Process
    - Prompt
    - AI Output
    - Immediate Market Launch
- Key Question: Can trademark law keep pace with AI-generated branding?

Trademark Law Refresher

- What Is a Trademark?
  - A trademark is a word, phrase, symbol, or design that identifies the source of goods or services.
- Purposes
  - Protect consumers
  - Protect business goodwill
  - Prevent confusion
- Examples
  - Nike
  - Apple
  - Starbucks
  - McDonald's

Can AI Actually Own a Trademark?

- Current Answer: No
- AI Cannot:
  - Own property
  - Enter contracts
  - Sue or be sued
  - Hold trademark rights
- Trademark Owners Must Be:
  - Individuals
  - Corporations
  - Partnerships
  - Legal entities

The AI Branding Revolution

- AI Can Already:
  - Create
  - Brand names
  - Logos
  - Slogans
  - Product descriptions
  - Marketing campaigns
- Example Outputs:
  - Velora
  - Lumira
  - Zenova

AI Creates a Brand in Seconds

- Prompt: "Create a luxury electric vehicle brand."
- AI Output:
  - Brand Name: AuroraVolt
  - Tagline: "Powering Tomorrow Elegantly."
- Questions:
  - Available?
  - Registrable?
  - Infringing?

The Clearance Problem

- A Good Name Is Not Necessarily A Legal Name
- Trademark Clearance Requires:
  - USPTO searching
  - State registrations
  - Common-law searches
  - Domain searches
  - International databases
- Process:
  - AI Idea → Search → Legal Review → Registration

AI-Generated Logos and Copyright Concerns

- Trademark Concerns:
  - Consumer confusion
  - Similar appearance
- Copyright Concerns:
  - Originality
  - Training data
  - Ownership
- Key Issue:
  - Is the logo actually unique?

Recent Trademark Cases Show the Trend

- Nike v. MSCHF
  - "Satan Shoes“
- Hermès v. MetaBirkins
  - NFT-Related Branding
- Jack Daniel's v. Bad Spaniels
  - Trademark Parody
- Common Theme
  - Consumer perception matters.

AI as a Trademark Lawyer's Assistant

- AI Helps With:
  - Searching
  - Monitoring
  - Drafting
  - Analysis
- Key Point:
  - AI Assists. Lawyers Decide.

USPTO Guidance on AI

- AI Can Assist
  - ✓ Research
  - ✓ Drafting
  - ✓ Organization
- Humans Remain Responsible
  - ✓ Accuracy
  - ✓ Verification
  - ✓ Professional Judgment
- Core Rule
  - Responsibility cannot be delegated to AI.

Ethical and Policy Questions

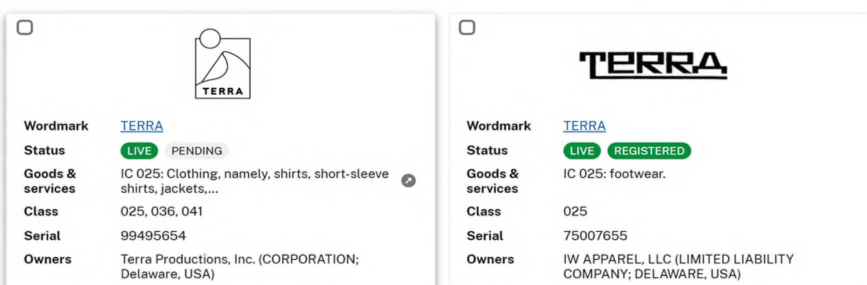
- Suppose AI Generates an Infringing Brand
  - Who is responsible?
  - User?
  - Business?
  - Attorney?
  - AI Developer?
- Policy Challenge
  - Balancing innovation and accountability.

AI Brand Name Generation Results

- Prompt Used
  – "Create two brand names for an eco-friendly athletic apparel company.“
- AI-Generated Results
  – 1. EcoStride
  – 2. TerraFit
- Initial Observations
  – Memorable
  – Relevant to sustainability
  – Easy to pronounce
  – Potential branding value
- Next Question:
  – Are these trademarks actually available?

USPTO Search Example

- Trademark Search
  – "TerraFit“



- Potential Issues Identified
  – Existing trademarks containing "Terra“
  – Similar marks within apparel and fitness industries
  – Potential likelihood-of-confusion concerns

Is Trademark Law Ready for AI?

- Current Law Still Works Because:
  - AI cannot own trademark
  - Trademark rights belong to businesses
  - Existing infringement rules apply
  - Consumer confusion remains the legal standard
- New Challenges Created by AI
  - Thousands of trademarks can be generated instantly
  - Similar marks may be created unintentionally
  - Trademark searches are becoming more complex
  - Questions about responsibility and liability remain
- The Big Question: Should trademark law evolve for AI, or can existing legal principles handle these challenges?

Thank you & Questions

Key Takeaways or Call to Action

- Remember:
  - AI cannot own trademarks
  - Businesses can own AI-created brands
  - Trademark clearance remains essential
  - Consumer confusion remains the core issue
  - Human judgment still matters
- Final Question
  - Can AI Own a Brand?
    - Legally: No
    - Practically: It is increasingly helping create one.

Let's stay connected

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ECKERT SEAMANS

EMERGING LEGAL RISK AREAS IN CONSTRUCTION

Presented by: David Meredith and Christopher S. Winkler

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David Meredith's practice is focused on complex construction disputes, representing owners, contractors, subcontractors, and material and equipment suppliers, in numerous federal and state court lawsuits, arbitrations and mediations throughout the United States. He regularly handles matters involving delay, acceleration, loss of productivity, differing site conditions, defective work, default, termination, mechanics liens, and payment and performance bond claims. David's practice experience spans numerous industry sectors, including transportation infrastructure, water treatment facilities, chemical and industrial manufacturing facilities, and oil and gas.

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Christopher Winkler focuses his practice on construction law, representing clients in state and federal courts across the country. He provides comprehensive guidance and advice to clients facing diverse and complex legal issues, drawing on his extensive experience in construction-related disputes and litigation. Christopher is well-versed in handling a variety of legal matters, ensuring his clients receive tailored solutions to navigate the complexities of construction law..

EMERGING ISSUES IN CONSTRUCTION

Presented by: Dave Meredith and Chris Winkler

ECKERT SEAMANS

Termination for Convenience

A termination for convenience provision is not a "get-out-of-jail-free card."

THREE PRACTICAL LIMITS ON TERMINATION FOR CONVENIENCE

01 A prior material breach may undermine the right to terminate for convenience.

02 Termination for convenience cannot be exercised in "bad faith."

03 Termination for convenience still generally requires payment of termination-related costs and potentially loss of anticipated profits.

KEY TAKEAWAY ***A termination for convenience provision is a risk-allocation tool, not an escape hatch.***

PRACTICAL LIMIT 01

Prior Material Breach May Defeat a Termination for Convenience Defense

A party may not invoke a termination for convenience provision after it materially breached the contract.

WHY IT MATTERS

A party who materially breaches first may lose the benefit of contractual protections it later seeks to invoke.

EXAMPLES

- Wrongful nonpayment
- Repudiation of contract
- Hiring a replacement contractor before termination
- Preventing contractor from performing
- Irreparably defective work

TAKEAWAY ***Before issuing a termination for convenience notice, consider whether circumstances support a claim of prior material breach.***

PRACTICAL LIMIT 02

Termination for Convenience Should Be Exercised in Good Faith

RED FLAGS

- Terminating solely to obtain a lower price
- Entering into a contract with no intention of fulfilling its terms
- Exercising provision to avoid paying earned compensation

Courts (particularly in public contracting) may consider whether termination for convenience provision was exercised for a legitimate business reason — or instead as an opportunistic tool.

TAKEAWAY ***Issuance of a "termination for convenience" may not be the "end of story."***

PRACTICAL LIMIT 03

Valid Termination for Convenience Still Has a Price Tag

COMMON RECOVERABLE COSTS

- Completed work
- Stored materials
- Demobilization
- Subcontractor termination costs
- Closeout and settlement costs

COMMON DISPUTES

- Profit recovery
- Overhead recovery
- Consequential damages
- Contractual limits on recovery

TAKEAWAY: ***A termination letter may start the damages fight, rather than end it.***

Gist of the Action: One Wrong Act, Two Potential Claims

THREE PRACTICAL IMPLICATIONS

01 **Traditionally, the gist of the action doctrine prevented tort claims from proceeding with contract claims.**

02 **Now, contract and tort claims may proceed together as long as the claims are sufficiently pled in the alternative.**

03 **Construction defendants face broader exposure including potential for punitive damages.**

KEY TAKEAWAY: The same conduct may now support both contract and tort theories of liability.

PRACTICAL IMPLICATION 01

Contract and Tort Claims May Now Coexist

After ***Bruno***, Pennsylvania courts must review each claim individually to determine whether the plaintiff has alleged or offered sufficient proof (depending on the stage of the proceedings) that the defendant breached the ***particular*** duty (tort or contractual) for each ***particular*** claim. If so, the claim proceeds to trial. Courts should keep in mind that there are instances when a single gist of the action (one unlawful act) breaches ***both*** a general duty of care, as well as an expressed or implied contractual duty. While double recovery for the same unlawful act is generally prohibited, multiple claims can proceed to trial, if timely filed.

Swatt v. Nottingham Vill., 2025 PA Super 138, 342 A.3d 23, 52, appeal denied, 352 A.3d 452 (Pa. 2025)

TAKEAWAY: The gist-of-the-action doctrine no longer automatically forces plaintiffs to choose one lane.

Increased Exposure

- **Alternative pleading**: Alternative pleading: To increase their options for recovery and leverage, plaintiffs in construction cases may increasingly plead their defective work and delay claims alternatively as breach of contract and negligence actions.
- **Punitive damages**: Plaintiffs in construction cases may likewise increasingly seek punitive damages in construction litigation cases to increase their potential recovery. For defendants, this trend will likely increase discovery costs and potential exposure.

Increased Exposure

- **Increased Expenses**: Expect more motion practice, discovery and experts.

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Compliance with CASPA: It's Better to be Safe than Sorry.

TWO PRACTICAL CONSIDERATIONS

01 Withhold payment only for legitimate, good-faith reasons.

02 Document payment disputes promptly and in writing.

TAKEAWAY: ***The absence of sufficient paperwork that complies with CASPA results in litigation exposure.***

CASPA CONSIDERATION 01

Good-Faith Withholding Matters

CASPA allows withholding — but not every withholding decision is protected.

QUESTIONS TO CONSIDER

- Was the objection timely?
- Was the withholding done on a proper basis – *i.e.*, deficiency item or invoice error?
- Was the amount withheld reasonable?

WHY IT MATTERS: SECTION 505 AND 512 CASPA DAMAGES INCLUDE

- Interest
- Penalty interest
- Attorneys' fees and costs

TAKEAWAY ***Ensure withholding is proper – once CASPA damages are part of a case, the dispute becomes much larger than the unpaid invoice.***

CASPA CONSIDERATION 02

Put Payment Objections in Writing

SECTION 506, 508, AND 511 OBJECTIONS

- Act promptly
- Explain the reason
- Identify the disputed amount
- Create a written record

LITIGATION RISK

Failure to provide timely written notice may weaken later challenges to invoices. *See* 73 P.S. §§ 506, 508, 511.

PRACTICAL BEST PRACTICE

If the invoice is wrong, say so immediately.

If the amount is disputed, explain why.

Put it in writing.

TAKEAWAY ***If you're going to dispute or withhold payment, do it immediately, in writing.***

Statute of Repose: Time Now Runs Against the King

THREE PRACTICAL LESSONS

01 Traditionally, the common law doctrine of *nullum tempus occurrit regi* prevented application of the 12-year statute to claims by the Commonwealth**.**

02 In *Clearfield County. v. Transystems Corp*., the Pennsylvania Supreme Court recently held that the common-law doctrine of *nullum tempus occurrit regi* does not preclude application of Pennsylvania's 12-year construction statute of repose to claims by the Commonwealth.

KEY TAKEAWAY: Even governmental entities may lose the right to pursue construction claims after twelve years.

PRACTICAL LESSON 02

Statute of Repose

- Statute of Limitations: Bars remedy after accrual
- Statute of Repose: Starts at completion and completely abolishes and eliminates a cause of action
- 12-year fixed cutoff
- In Pennsylvania the statute of repose now abolishes and eliminates causes of action against construction industry professionals 12 years after the construction project is completed and precludes the revival of those causes of action by the Commonwealth, its agencies, and its political subdivisions even if they are acting in their official capacity for a governmental purpose

TAKEAWAY: The statute of repose can end a case asserted by the Commonwealth before it begins.

PRACTICAL LESSON 03

The Calendar is Your Best Defense

- **Identify substantial completion date**
- **Preserve closeout records**
- **Raise the defense immediately**

Contractors Beware: Strict Compliance with Notice and Claim Provisions on Public Projects

TWO PRACTICAL LESSONS

01 In *Glob. Heavy Corp. v. Univ. Area Joint Auth.*, 343 A.3d 751 (Pa. Commw. Ct. 2025), the Commonwealth Court recently reaffirmed that contractors on public projects must strictly comply with the contractual requirements for presenting change orders and claims.

02 Failure to comply with the notice and claim provisions results in a waiver of a contractor's right to more time or money.

Strict Compliance – Notice & Claims

- It is well-established law that "[w]here a public contract states the procedure in regard to work change and extras, claims for extras will not be allowed unless these provisions have been strictly followed:' Nether Providence Twp. Sch. Auth. v. Thomas M. Durkin & Sons, Inc., 476 A.2d 904, 906-07 (Pa. 1984). Further, "[w]aiver of publiccontract provisions regulating change orders can be accomplished only by a formal written action, (i.e.[,] a new contract) by the public body authorized to enter into the contract, or the express ratification of the extra work claim by resolution of the public bodY:' Id. at 907. The Nether Providence Court expounded: "[The Pennsylvania Supreme Court] ha[s]always rigidly imposed strict standards on contractors who deal with public bodies to prevent the unwarranted plundering of public funds, to uphold the integrity of the bidding process, and [our Supreme Court] see[s]no reason to change our long[-]established precedents ...:"

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BETTER PROMPTS, BETTER JUDGMENT: USING AI RESPONSIBLY IN TRANSACTIONS AND LITIGATION

Presented by: Gerard Hornby and Derek T. Luke

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Gerard Hornby focuses his practice on construction law, representing general contractors, subcontractors, and owners in all stages of public and private construction projects. He has significant construction law experience with bid protests, the prosecution and defense of delay and impact claims, and differing site condition claims. Gerard also counsels clients on the drafting and negotiating of contract terms and conditions, lien rights and payment and collection issues.

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Derek advises companies at all stages — from startups and emerging ventures to established middle-market enterprises — on corporate governance, strategy, commercial contracting, stock and asset deals, market entry and expansion, and compliance matters. Drawing on his experience as both a small business owner and lawyer, he brings a pragmatic, business-oriented approach to counseling company owners, operators, and directors and managing legal risks across a range of industries, including technology and AI, industrial and manufacturing, construction, energy, food and beverage, and healthcare and services. He also brings hands-on experience designing AI-assisted legal workflows and advising clients – particularly technology companies and startups – on the legal and operational implications of deploying AI tools in their own businesses.

Better Prompts, Better Judgment:

Using AI Responsibly in Transactions and Litigation

Presented by: Derek Luke and Gerard Hornby

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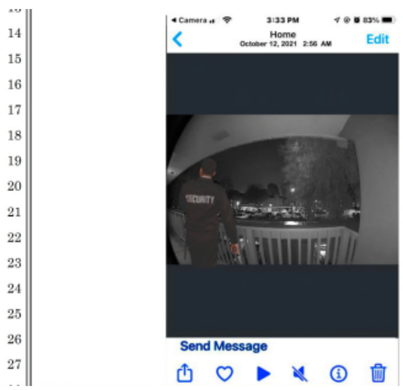
This is what AI looked like 3 years ago…

This is what it looks like today…

- Mendones v. Cushman (Cal. Super. 2025): Plaintiffs submitted fabricated evidence (photos and videos) in support of their motion for summary judgment.



Or this…

Arizona man shot dead in road rage 'returns' to address his killer

7 May 2025

Share Save Add as preferred on Google

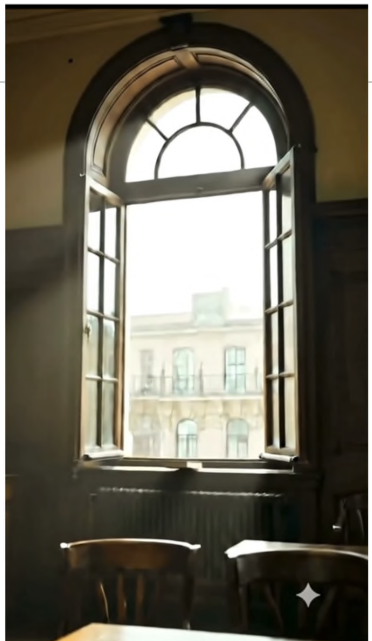
Ana Faguy, BBC News and Lily Jamali, North America Technology Correspondent

Watch Chris Pelkey's AI-rendered impact statement shown in court

"To Gabriel Horcasitas, the man who shot me, it is a shame we encountered each other that day in those circumstances," said the AI version of Christopher Pelkey in court.

"In another life, we probably could have been friends."

Or even this…



Introduction

- Lawyers are already using AI tools to assist with:
  - Drafting and revising documents
  - Legal research and issue spotting
  - Contract review and due diligence
  - Discovery review and document summaries
  - Litigation strategy and court filings
  - Client communications and internal work product

Introduction

- The ethical question is not whether lawyers may use AI. The question is how lawyers can use AI responsibly.
- AI is not replacing the lawyer's ethical duties. It is creating new ways to violate old duties.
- AI can assist legal work, but it cannot assume legal responsibility.

The Ethical Framework for Lawyers

- **Rule 1.1 — Competence**

Lawyers must provide competent representation, requiring legal knowledge, skill, thoroughness, and preparation. Pennsylvania's technology competence comment also requires lawyers to keep abreast of the benefits and risks associated with relevant technology.

- **Rule 1.6 — Confidentiality**

Lawyers may not reveal information relating to representation without informed consent or other authorization, and must make reasonable efforts to prevent inadvertent or unauthorized disclosure.

- **Rule 3.3 — Candor to the Tribunal**

AI-generated filings raise candor concerns if they include fabricated authority, misstatements of law, or unsupported factual assertions.

- **Rules 5.1 and 5.3 — Supervision**

Lawyers must supervise lawyers, nonlawyers, and third-party assistance; AI should be treated as a tool requiring oversight, not as an independent source of legal judgment.

Pennsylvania's AI Ethics Guidance

- Joint Formal Opinion 2024-200
  - The Pennsylvania Bar Association and Philadelphia Bar Association
  - Lawyers using AI must understand the technology, verify AI-generated work, protect client confidentiality, supervise AI-assisted work, and maintain human judgment in the final product.
- **AI may assist the lawyer, but it does not replace the lawyer.**

ABA Formal Opinion 512: National Context

- In July 2024, the ABA issued Formal Opinion 512 on generative AI.
- Identified ethical obligations including competence, confidentiality, client communication, supervision, candor to tribunals, and reasonable fees.

What We Will Cover Today

- **Part 1: AI Ethics in Litigation Practice**
  - AI-generated research, briefs, and court filings
  - Hallucinated cases and candor to the tribunal
  - Confidentiality and privilege risks
  - AI in discovery and document review
  - AI-generated evidence, deepfakes, and authentication
  - Practical safeguards for litigators
- **Part 2: AI Ethics in Business and Transactional Practice**
  - AI-assisted drafting example
  - M&A checklist creation
  - Simulated due diligence review
  - Confidentiality and sensitive business information
  - Client disclosure, consent, and billing considerations
  - Supervision of AI-assisted transactional workflows

Litigation & AI

Litigation in the Age of AI

- AI is already changing litigation practice.
- Core question: How can litigators use AI efficiently without violating duties of competence, confidentiality, candor, and supervision?
- In litigation, AI risks become especially acute because lawyers are interacting with courts, opposing counsel, witnesses, discovery materials, and evidentiary records.

Competence Is the Starting Point

- **Rule 1.1: Competence:** A lawyer must provide competent representation, which requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation
- In the AI context, competence means understanding:
  - What the tool can and cannot do
  - Whether the tool may generate incorrect or fabricated content
  - Whether the tool protects confidential information
  - Whether the lawyer can verify the output
  - Whether the lawyer is using the tool for an appropriate task

Competence includes technological awareness

- The lawyer must understand enough to use the technology competently.
- A competent AI workflow includes verification.
- A polished AI draft is not the same thing as a verified legal product.

Candor to the Tribunal

- Pennsylvania Rule of Professional Conduct 3.3 prohibits a lawyer from knowingly making a false statement of material fact or law to a tribunal, failing to correct a false statement previously made, or offering evidence the lawyer knows to be false.
- The rule also requires remedial measures if false material evidence is later discovered.
- Hallucinations…

Cautionary Tales

McCarthy v. US Drug Enforcement Admin., No. 24-2704 (3d Cir. March 27, 2026)

Rule 1.1 violation. Briefs contained unverified, AI-generated case summaries and a completely nonexistent case provided by a non-attorney client.

"It was highly disappointing to learn that Attorney's status as an officer of the Court did not prevent him from blindly submitting erroneous authority and to learn that this Court's confidence in him was misplaced."

"Our decision is neither a critique nor a comment upon Attorney's reliance on others in conducting research, nor the use of AI generally. With proper supervision and vetting, both may be helpful to an attorney."

Cautionary Tales

- **Lifetime Well LLC v. Ibspot.com, Inc., No. 2:25-CV-05135-MAK (E.D. Pa. Jan. 26, 2026 Kearney, J.)**
  – Two attorneys sanctioned after the court identified numerous hallucinations in briefs.

"Our talented lawyers in Chambers caught these hallucinations and we directed counsel to show cause as to why we should not impose sanctions. [Counsel] responded by firing a new lawyer in her office who played some role in preparing the briefing"

"[Counsel] comes before this Court with its tail between its legs, fully acknowledging the errors."

Cautionary Tales

We find a non-monetary sanction is most appropriate as an instructional measure. Attorney Goldin shall send a cover letter to the President of the Philadelphia Intellectual Property Lawyers Association enclosing today's Order, this Memorandum, and his artificial intelligence policy and respectfully advise the President of our request these attachments be shared with the Association's membership during its next Association membership meeting as a lesson on the risks of artificial intelligence and the duties of local counsel as members of the Bar of this Court.

Cautionary Tales

- **Saber v. Navy Federal Credit Union, No. 2449 EDA 2024 (Pa. Super. Jan. 14, 2026) (Op. by Nichols, J.)**
- The Pennsylvania Superior Court noted that the litigant provided "non-sensical citations to and characterization of" certain cases.
- The litigant's Brief also contained citations to several other cases that did not exist.
- This "suggests this is due to Appellant's use of generative artificial intelligence"
- Led to a waiver of his claims on appeal.

Cautionary Tales

- **<u>Assoc. Builders and Contractors, Inc. v. Bucks County Community College</u>, No. 1172 C.D. 2025 (Pa. Cmwlth. Nov. 24, 2025, Jubelirer, P.J.)**

- The Pennsylvania Commonwealth Court refused to allow an attorney to file an Amended Appellate Brief after it was determined that the original Brief filed by that attorney was created using AI and was riddled with numerous factual and legal errors.

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Cautionary Tales

- **<u>Twigg v. BSN Sports, Inc.,</u> No. 4:23-CV-00067-MWB (M.D. Pa. June 18, 2026 Brann, C.J.)**
  – $1,500 sanction and six-month district suspension

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Cautionary Tales

- **<u>Jakes v. Youngblood</u>, No. 2:24-cv-1608 (W.D. Pa. June 26, 2025, Stickman, J.)**
- The attorney failed to offer any explanation for the fabrications in his own brief. Instead attacked the content of the opposing party's brief (which the court noted did not contain any fabricated quotations or misrepresented case law).
- The court also noted that, "[e]ven more outrageously," a review of the AI-happy attorney's reply brief demonstrated that that brief also contained fabricated quotes from Judge Stickman himself.
- The court noted that it found it to be "very troubling" that, when accused of serious ethical violations, the attorney at fault "chose to double down" and not admit to wrongdoing.

Hallucinations Are Only One Problem

- Not just nonexistent cases. AI may produce
  - Real cases with incorrect holdings
  - Misquoted language
  - Incorrect procedural history
  - Outdated law
  - Overconfident legal conclusions
  - Facts "filled in" from context
- Don't over-focus on "fake cases." The more dangerous issue is subtle error
- A hallucinated citation is easy to catch. A subtly wrong legal standard may not be.

Filing Certifications

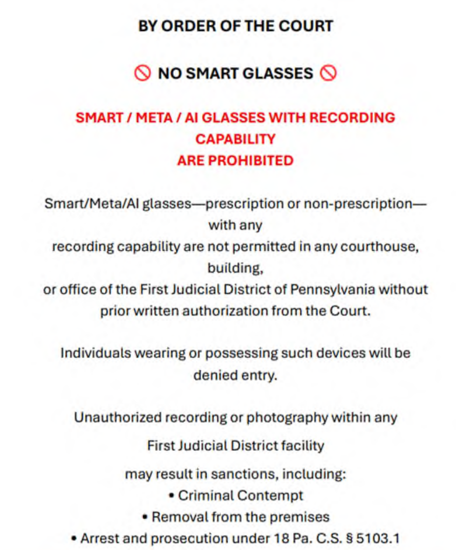
- Court-specific requirements. Each county, each court, each chamber may be different.
- Some courts require mandatory AI disclosures to be attached to any court filing.
- Attorneys must attest either that no portion was drafted by AI or that any AI-generated language was verified for accuracy by a human prior to submission.

Filing Certifications

- Butler County, Westmoreland County, Lancaster County, Mercer County
- Some judges in the Eastern District of PA, Middle District of PA, and District of New Jersey

Philadelphia

New York


BY ORDER OF THE COURT

🚫 NO SMART GLASSES 🚫

SMART / META / AI GLASSES WITH RECORDING CAPABILITY ARE PROHIBITED

Smart/Meta/AI glasses—prescription or non-prescription—with any recording capability are not permitted in any courthouse, building, or office of the First Judicial District of Pennsylvania without prior written authorization from the Court.

Individuals wearing or possessing such devices will be denied entry.

Unauthorized recording or photography within any First Judicial District facility may result in sanctions, including:
• Criminal Contempt
• Removal from the premises
• Arrest and prosecution under 18 Pa. C.S. § 5103.1

Confidentiality and Privilege Risks

- Confidentiality — Rule 1.6
  - Lawyers must protect information relating to client representation from unauthorized disclosure or access
- Prompts can be disclosures.
- Engagement letters? Client policy? Firm policy?
- Before using a tool, we need to know whether the tool is approved, whether prompts are retained, whether data is used for training, who can access it, and whether the client or matter requires special restrictions.

Confidentiality and Privilege Risks

- Deposition transcripts
- Summarizing productions
- Analyzing privileged documents
- Drafting mediation statements
- Preparing witness outlines
- Summarizing expert reports
- Feeding client facts into a drafting tool

Confidentiality and Privilege Risks

- Discoverability.
- AI-generated materials fit comfortably within the definition of ESI.
- Client use = likely discoverable.
- Work product?

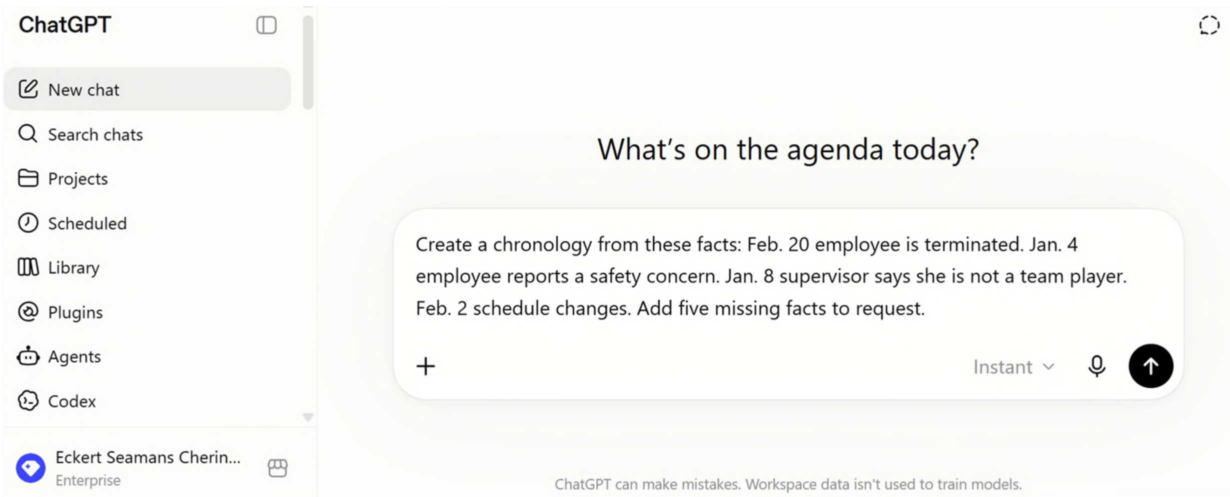
Confidentiality and Privilege Risks

- Use firm-approved tools
- Redact or anonymize when possible
- Avoid uploading privileged or sensitive materials into unvetted platforms
- Document review and verification steps
- Train lawyers and staff on approved and prohibited uses

AI in Discovery

- AI can assist discovery by helping with:
  - Technology-assisted review
  - Document clustering
  - Issue tagging
  - Privilege review
  - Chronology creation
  - Hot-document identification
  - Summaries of large productions

AI in Discovery



AI in Discovery

- AI does not eliminate attorney obligations
- Potential risks include:
  - Missing responsive documents
  - Producing privileged material
  - Misclassifying documents
  - Inadequate quality control
  - Inability to explain the review process
  - Overreliance on summaries instead of source documents

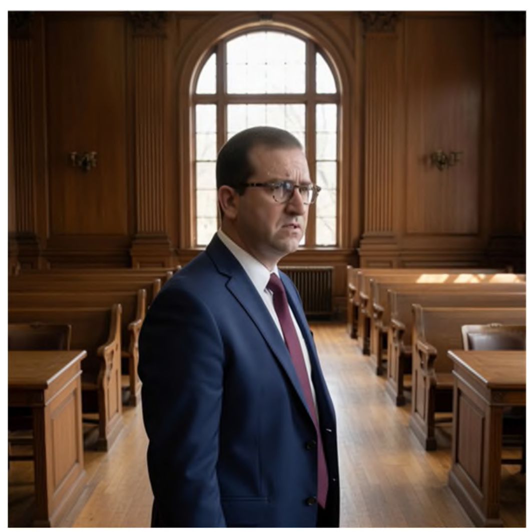
Discovery: Reasonable Inquiry Still Matters

- Practical safeguards:
  - Use sampling and quality control
  - Validate search and review methods
  - Maintain audit trails
  - Preserve review protocols
  - Escalate privilege calls to attorneys
  - Confirm that summaries match source documents
  - Be prepared to explain the workflow if challenged

- F.R.C.P. 26(g)

AI-Generated Evidence and Deepfakes

- AI can generate or alter:
  - Audio recordings
  - Videos
  - Images
  - Emails
  - Text messages
  - Social media posts
  - Business records
  - Metadata-like artifacts



AI-Generated Evidence and Deepfakes

- The next wave of AI ethics issues may not be lawyers using AI badly. It may be clients, witnesses, employees, or opposing parties generating or challenging evidence using AI.

- This may raise:
  - Authentication disputes
  - Chain-of-custody questions
  - Forensic expert involvement
  - Motions in limine
  - Increased scrutiny of digital evidence

- F.R.C.P. 26(g)

Supervision

- Rules 5.1 and 5.3: Supervision
  - Lawyers must supervise lawyers, nonlawyers, and third-party assistance
  - AI should be treated as a tool requiring oversight, not as an independent source of legal judgment.

- Treat AI like a very fast associate or assistant.

- Very useful, very confident, and sometimes very **very** wrong.

Supervision: AI as a New Type of Assistant

- AI use must be supervised when used by:
  - Associates
  - Paralegals
  - Legal assistants
  - Contract attorneys
  - Vendors
  - Litigation support providers
  - Experts or consultants
- Firm-level controls
  - Written AI policy
  - Approved tools list
  - Prohibited-use examples
  - Citation verification requirements
  - Confidentiality protocols
  - Training for lawyers and staff
  - Escalation procedures for mistakes

Practical Litigation Checklist

- Is this an appropriate use?
  - Is AI being used for brainstorming or organization, or is it being asked to generate legal conclusions, citations, factual assertions, or evidence analysis?
- Is the tool approved and secure?
  - Am I entering confidential, privileged, protected, or client-sensitive information into a vetted platform?
- Has the output been verified?
  - Have I checked the cases, quotations, record citations, transcript excerpts, factual summaries, and legal standards?
- Do I need to disclose AI use?
  - Does the court, judge, local rule, standing order, protective order, client guideline, or engagement agreement require disclosure or certification?
- Can I explain the process?
  - If the court, client, or opposing counsel asks how AI was used, can I give a clear and accurate answer?

If you cannot verify it, explain it, or stand behind it, do not file it.

Transactional Practice & AI

Polling

- Raise your hand if you have used an AI tool.

Polling

- Keep it raised if you have used an AI tool more than 10 times.

Polling

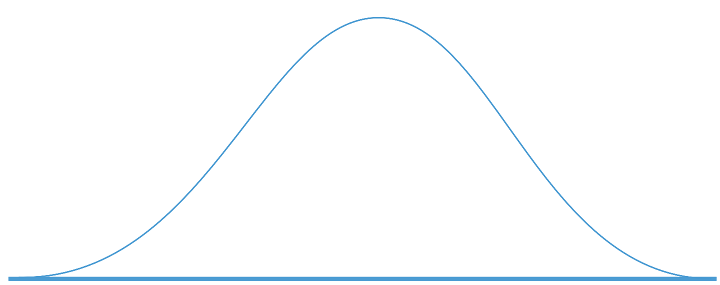
- Keep it raised if you used an AI tool more than 10 times last month.

Polling

- Keep it raised if you use an AI tool nearly every day.

Polling

- The spread is normal – everyone is learning.
- You are not “behind the times” nor “throwing caution to the wind”



Choose Your Tool

- Open an approved AI tool, or one of your choice.

ChatGPT

Scan with your smart Phone
<<   >>

Google Gemini

Rules of Engagement

- Before we continue:
  - Partner with someone near you
  - Use only public, fictional, or anonymized facts. (unless you under a more protective "enterprise" agreement or are otherwise using an approved tool).
    - ABA/PA Rule 1.6: Protect client information; reasonably prevent unauthorized disclosures.
  - Prompt for issues or questions - not legal conclusions.
    - ABA/PA Rule 1.1: Understand the tool's limits; verify its work.

Activity

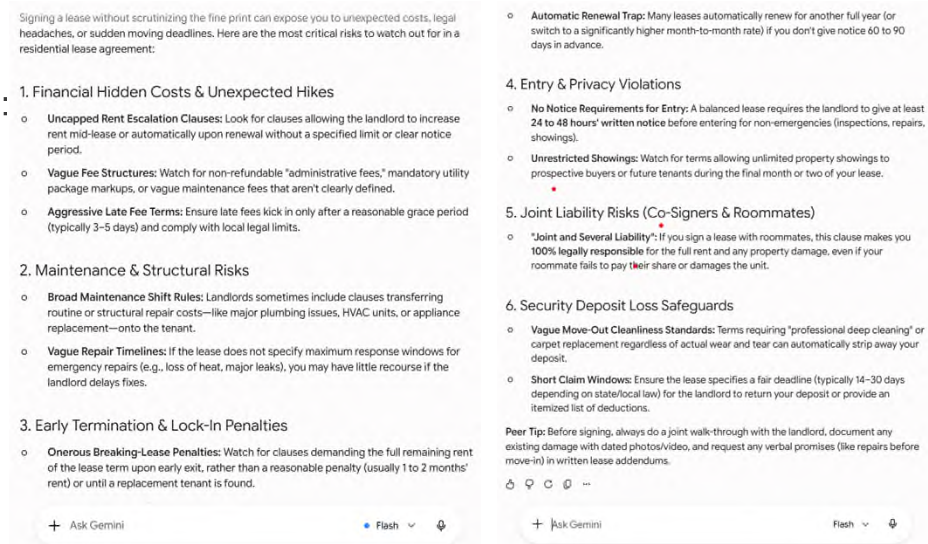
Lease Exercise: Building Context Slowly

- Type into the prompt box:

List risks in a lease agreement

Lease Exercise: Building Context Slowly

- My result (from Google Gemini):



Signing a lease without scrutinizing the fine print can expose you to unexpected costs, legal headaches, or sudden moving deadlines. Here are the most critical risks to watch out for in a residential lease agreement:

1. Financial Hidden Costs & Unexpected Hikes

- **Uncapped Rent Escalation Clauses:** Look for clauses allowing the landlord to increase rent mid-lease or automatically upon renewal without a specified limit or clear notice period.
- **Vague Fee Structures:** Watch for non-refundable "administrative fees," mandatory utility package markups, or vague maintenance fees that aren't clearly defined.
- **Aggressive Late Fee Terms:** Ensure late fees kick in only after a reasonable grace period (typically 3–5 days) and comply with local legal limits.

2. Maintenance & Structural Risks

- **Broad Maintenance Shift Rules:** Landlords sometimes include clauses transferring routine or structural repair costs—like major plumbing issues, HVAC units, or appliance replacement—onto the tenant.
- **Vague Repair Timelines:** If the lease does not specify maximum response windows for emergency repairs (e.g., loss of heat, major leaks), you may have little recourse if the landlord delays fixes.

3. Early Termination & Lock-In Penalties

- **Onerous Breaking-Lease Penalties:** Watch for clauses demanding the full remaining rent of the lease term upon early exit, rather than a reasonable penalty (usually 1 to 2 months' rent) or until a replacement tenant is found.

Ask Gemini Flash

- **Automatic Renewal Trap:** Many leases automatically renew for another full year (or switch to a significantly higher month-to-month rate) if you don't give notice 60 to 90 days in advance.

4. Entry & Privacy Violations

- **No Notice Requirements for Entry:** A balanced lease requires the landlord to give at least **24 to 48 hours' written notice** before entering for non-emergencies (inspections, repairs, showings).
- **Unrestricted Showings:** Watch for terms allowing unlimited property showings to prospective buyers or future tenants during the final month or two of your lease.

5. Joint Liability Risks (Co-Signers & Roommates)

- **"Joint and Several Liability":** If you sign a lease with roommates, this clause makes you **100% legally responsible** for the full rent and any property damage, even if your roommate fails to pay their share or damages the unit.

6. Security Deposit Loss Safeguards

- **Vague Move-Out Cleanliness Standards:** Terms requiring "professional deep cleaning" or carpet replacement regardless of actual wear and tear can automatically strip away your deposit.
- **Short Claim Windows:** Ensure the lease specifies a fair deadline (typically 14–30 days depending on state/local law) for the landlord to return your deposit or provide an itemized list of deductions.

Peer Tip: Before signing, always do a joint walk-through with the landlord, document any existing damage with dated photos/video, and request any verbal promises (like repairs before move-in) in written lease addendums.

Ask Gemini Flash

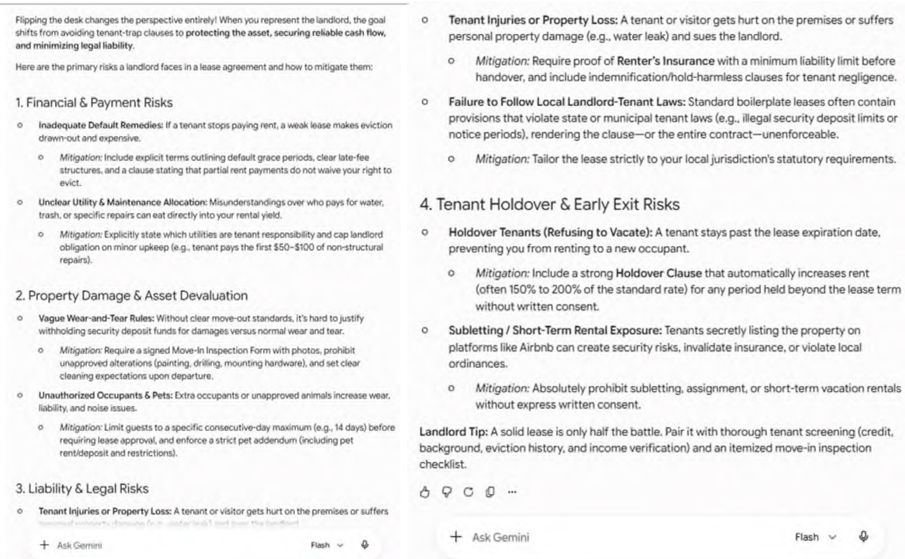
Lease Exercise: Building Context Slowly

- Type into the prompt box:

Assume I represent the landlord

Lease Exercise: Building Context Slowly

- My result (from Google Gemini):



Flipping the desk changes the perspective entirely! When you represent the landlord, the goal shifts from avoiding tenant-trap clauses to **protecting the asset, securing reliable cash flow, and minimizing legal liability.**

Here are the primary risks a landlord faces in a lease agreement and how to mitigate them:

1. Financial & Payment Risks

- **Inadequate Default Remedies:** If a tenant stops paying rent, a weak lease makes eviction drawn-out and expensive.
  - *Mitigation:* Include explicit terms outlining default grace periods, clear late-fee structures, and a clause stating that partial rent payments do not waive your right to evict.
- **Unclear Utility & Maintenance Allocation:** Misunderstandings over who pays for water, trash, or specific repairs can eat directly into your rental yield.
  - *Mitigation:* Explicitly state which utilities are tenant responsibility and cap landlord obligation on minor upkeep (e.g., tenant pays the first $50–$100 of non-structural repairs).

2. Property Damage & Asset Devaluation

- **Vague Wear-and-Tear Rules:** Without clear move-out standards, it's hard to justify withholding security deposit funds for damages versus normal wear and tear.
  - *Mitigation:* Require a signed Move-In Inspection Form with photos, prohibit unapproved alterations (painting, drilling, mounting hardware), and set clear cleaning expectations upon departure.
- **Unauthorized Occupants & Pets:** Extra occupants or unapproved animals increase wear, liability, and noise issues.
  - *Mitigation:* Limit guests to a specific consecutive-day maximum (e.g., 14 days) before requiring lease approval, and enforce a strict pet addendum (including pet rent/deposit and restrictions).

3. Liability & Legal Risks

- **Tenant Injuries or Property Loss:** A tenant or visitor gets hurt on the premises or suffers

Ask Gemini Flash

- **Tenant Injuries or Property Loss:** A tenant or visitor gets hurt on the premises or suffers personal property damage (e.g., water leak) and sues the landlord.
  - *Mitigation:* Require proof of **Renter's Insurance** with a minimum liability limit before handover, and include indemnification/hold-harmless clauses for tenant negligence.
- **Failure to Follow Local Landlord-Tenant Laws:** Standard boilerplate leases often contain provisions that violate state or municipal tenant laws (e.g., illegal security deposit limits or notice periods), rendering the clause—or the entire contract—unenforceable.
  - *Mitigation:* Tailor the lease strictly to your local jurisdiction's statutory requirements.

4. Tenant Holdover & Early Exit Risks

- **Holdover Tenants (Refusing to Vacate):** A tenant stays past the lease expiration date, preventing you from renting to a new occupant.
  - *Mitigation:* Include a strong **Holdover Clause** that automatically increases rent (often 150% to 200% of the standard rate) for any period held beyond the lease term without written consent.
- **Subletting / Short-Term Rental Exposure:** Tenants secretly listing the property on platforms like Airbnb can create security risks, invalidate insurance, or violate local ordinances.
  - *Mitigation:* Absolutely prohibit subletting, assignment, or short-term vacation rentals without express written consent.

Landlord Tip: A solid lease is only half the battle. Pair it with thorough tenant screening (credit, background, eviction history, and income verification) and an itemized move-in inspection checklist.

Ask Gemini Flash

Lease Exercise: Building Context Slowly

- Type into the prompt box:

Assume commercial

Lease Exercise: Building Context Slowly

- My result
(from Google Gemini):

Switching to **commercial real estate (CRE)** shifts the focus from consumer protections to business operations, long-term capital risk, and property valuation.

Because commercial leases span 3, 5, or 10+ years and involve significant financial stakes, an improperly drafted lease can degrade your property's cap rate, tie up cash flow, or leave you footing massive structural bills.

Here are the key risks a commercial landlord must manage in a lease agreement:

1. Financial & Operational Expense Risks

- **Misaligned Lease Structure (Gross vs. Triple Net / NNN):**
  - *Risk:* In a Gross lease, if property taxes, insurance, or operating expenses (CAM - Common Area Maintenance) spike, the landlord absorbs 100% of the loss.
  - *Mitigation:* Favor **Triple Net (NNN)** terms where the tenant pays base rent plus their pro-rata share of taxes, insurance, and CAM. If using a Modified Gross structure, set clear **Expense Stop** baselines.
- **Vague CAM Audit & Reconciliation Terms:** Tenants frequently dispute CAM audits if definitions of "operating expenses" are broad or poorly documented, leading to withheld rent.
  - *Mitigation:* Clearly define included vs. excluded expense items, set strict time windows for tenant audit requests (e.g., within 60 days of the annual statement), and mandate that disputed fees must be paid into escrow during audits.

2. Tenant Default, Credit, & Use Risks

- **Tenant Insolvency or Bankruptcy:** A commercial tenant going under can leave you with empty space that is difficult and costly to re-lease.
  - *Mitigation:* Require a strong **Personal Guarantee** or Corporate Guarantee, secure an Letter of Credit or sizeable Security Deposit, and include strict financial reporting requirements (e.g., annual financial statement delivery).
- **Broad Permitted Use Clauses:** If the "Permitted Use" clause is too general (e.g., "general retail"), the tenant might pivot to a business model that devalues the center, causes nuisance, or violates exclusive use agreements granted to adjacent tenants.
  - *Mitigation:* Draft tightly defined Permitted Use clauses and explicitly list prohibited activities (e.g., hazardous materials, excessive noise, competing business models).

3. Build-Out & Alteration Risks (TI Allowances)

- **Tenant Improvement (TI) Runaways & Mechanic's Liens:** Landlords often provide a TI Allowance. If the tenant's contractors aren't paid or do sub-par work, unpaid contractors can attach a mechanic's lien to *your* building.
  - *Mitigation:* Control the TI disbursement process (disburse funds only upon receipt of lien waivers and proof of completed work), require prior landlord approval for all structural modifications, and mandate that all improvements default to property ownership upon lease end.

4. Co-Tenancy & Exclusive Use Traps

- **Uncontrolled Exclusive Use Grants:** Giving one tenant exclusive rights to sell a product (e.g., "only coffee shop in the complex") can trigger default claims if another tenant subtly starts offering similar items.
  - *Mitigation:* Keep exclusive language narrowly defined and make enforcement the responsibility of the complaining tenant rather than a landlord liability.
- **Co-Tenancy Clause Triggers:** In retail, smaller tenants often demand a Co-Tenancy Clause allowing them reduced rent or early termination if an "anchor tenant" leaves.
  - *Mitigation:* Avoid co-tenancy clauses where possible, or build in generous cure periods (6–12 months) to replace an anchor tenant before penalties kick in.

5. Casualty, Restoration, & Environmental Liability

- **Environmental & Hazardous Materials Exposure:** Industrial or automotive tenants handling chemicals can leave behind soil or groundwater contamination that subjects the landlord to strict environmental liabilities.
  - *Mitigation:* Require pre- and post-lease environmental assessments (Phase I ESA), indemnification clauses, and strict hazardous waste disposal covenants.
- **Vague Restoration Obligations:** At the end of a multi-year term, removing heavy machinery or specialized build-outs (like commercial kitchens or vault rooms) can cost tens of thousands.
  - *Mitigation:* Include a clear clause giving the landlord the option to require the tenant to restore the space to "original shell condition" at their own expense upon move-out.

\+ Ask Gemini Flash

Lease Exercise: Building Context Slowly

- Type into the prompt box:

Assume PA law

Lease Exercise: Building Context Slowly

- My result

(from Google Gemini):

In Pennsylvania, commercial landlord-tenant law is strongly contract-driven, giving landlords wide latitude to structure agreements in their favor. However, PA courts strictly construe lease terms against the landlord if strict legal standards aren't met.

If you represent a commercial landlord in Pennsylvania, here are the most critical PA-specific legal nuances and drafting risks to manage:

1. Confession of Judgment (PA's Most Powerful Tool)

Pennsylvania is one of the very few states that still permits a **Confession of Judgment** clause in commercial leases. This allows you to bypass normal trial court proceedings and immediately obtain a money judgment or writ of possession against a defaulting tenant without prior notice or a hearing.

- **The Risk:** PA courts heavily disfavor taking away a tenant's due process rights, so if your Confession of Judgment clause isn't drafted perfectly, judges will strike it down instantly.
- **PA-Specific Mitigation Requirements:**
  - **Conspicuous Drafting:** The clause must be in **bold**, ALL-CAPS, or enlarged font. It cannot be buried in fine print or standard addenda.
  - **Separate Signatures/Initials:** Require the tenant to specifically sign or initial directly adjacent to or under the confession clause.
  - **Strict Re-Execution on Modifications:** Under PA case law, if you amend, extend, or assign the lease down the road, you **must explicitly re-state and re-execute** the confession of judgment clause, or it becomes legally unenforceable.

2. Statutory "Notice to Quit" Waivers

Under the **Pennsylvania Landlord and Tenant Act of 1951**, landlords must typically give a statutory notice before initiating eviction (e.g., 10 days for non-payment, 15 to 30 days for end-of-term or other defaults).

- **The Risk:** Having to wait 10–30 days just to give formal notice before filing for eviction wastes valuable time while an insolvent commercial tenant occupies your building.
- **Mitigation:** Include an explicit, enforceable **Waiver of Notice to Quit** clause in the lease. Pennsylvania law allows commercial tenants to contractually waive their right to statutory notice, allowing you to initiate legal proceedings immediately upon default.

\+ Ask Gemini Flash

3. Duty to Mitigate Damages (No Automatic Duty for Landlords)

- **PA Rule:** Unlike residential leases or commercial laws in many other states, Pennsylvania common law generally **does not require a commercial landlord to mitigate damages** if a tenant defaults or abandons the property early.
- **The Risk:** If you accidentally include "standard" template language stating the landlord "will make reasonable efforts to re-let the space," you voluntarily create a legal obligation that PA law wouldn't otherwise impose on you.
- **Mitigation:** Ensure your acceleration and default remedies clearly state that you have the right to accelerate all remaining future rent under the term without an express duty to re-lease the space first.

4. Mechanic's Liens (PA Mechanics' Lien Law of 1963)

Commercial tenants frequently perform build-outs (Tenant Improvements) using their own general contractors.

- **The Risk:** In PA, if a tenant fails to pay their contractor or subcontractors, those contractors can file a **Mechanic's Lien** against *your real estate*, clouding your title.
- **Mitigation:**
  - Require the tenant's contractor to execute and file a formal **Waiver of Liens** in the county Prothonotary's office before starting work.
  - Explicitly mandate in the lease that tenant alterations do not give contractors any lien rights against the fee interest (the building itself).

5. Security Deposits & Distraint (Distress for Rent)

- **Security Deposits:** Unlike PA residential leases (which cap deposits at 2 months' rent for year 1 and 1 month thereafter), **PA commercial leases have no statutory cap** on security deposits or letter-of-credit requirements.
- **Landlord's Right of Distraint:** Pennsylvania law technically allows a commercial landlord "distress for rent" (seizing a tenant's personal property/equipment on the premises for unpaid rent). However, exercising this without a court order carries severe due process legal risks.
- **Mitigation:** Do not rely on self-help distraint. Instead, obtain a perfecting **UCC-1** Financing Statement granting you a security interest in the tenant's trade fixtures and

\+ Ask Gemini Flash

Lease Exercise: Building Context Slowly

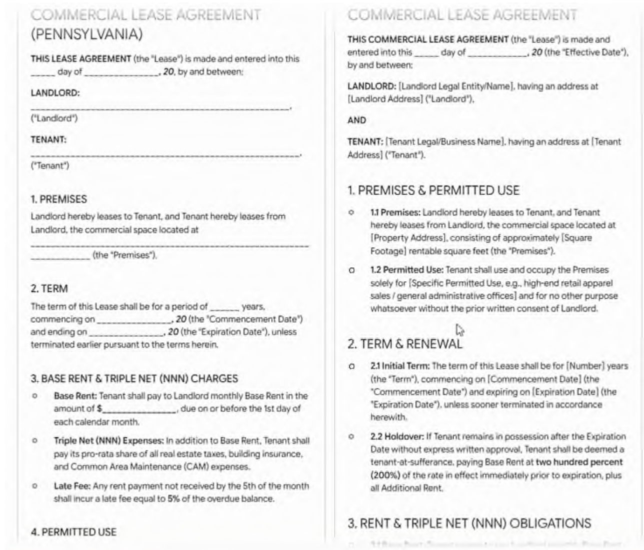
- Type into the prompt box:

Draft an agreement based on the above

Lease Exercise: Building Context Slowly

- My result

(from Google Gemini):



COMMERCIAL LEASE AGREEMENT
(PENNSYLVANIA)

THIS LEASE AGREEMENT (the "Lease") is made and entered into this _____ day of _______________, *20*, by and between:

LANDLORD:

____,
("Landlord")

TENANT:

____,
("Tenant")

1. PREMISES

Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the commercial space located at ____ ____________ (the "Premises").

2. TERM

The term of this Lease shall be for a period of ______ years, commencing on _______________, *20* (the "Commencement Date") and ending on _______________, *20* (the "Expiration Date"), unless terminated earlier pursuant to the terms herein.

3. BASE RENT & TRIPLE NET (NNN) CHARGES

- **Base Rent:** Tenant shall pay to Landlord monthly Base Rent in the amount of **$**_______________, due on or before the 1st day of each calendar month.
- **Triple Net (NNN) Expenses:** In addition to Base Rent, Tenant shall pay its pro-rata share of all real estate taxes, building insurance, and Common Area Maintenance (CAM) expenses.
- **Late Fee:** Any rent payment not received by the 5th of the month shall incur a late fee equal to **5%** of the overdue balance.

4. PERMITTED USE

COMMERCIAL LEASE AGREEMENT

THIS COMMERCIAL LEASE AGREEMENT (the "Lease") is made and entered into this _____ day of _____________, *20* (the "Effective Date"), by and between:

LANDLORD: [Landlord Legal Entity/Name], having an address at [Landlord Address] ("Landlord").

AND

TENANT: [Tenant Legal/Business Name], having an address at [Tenant Address] ("Tenant").

1. PREMISES & PERMITTED USE

- **1.1 Premises:** Landlord hereby leases to Tenant, and Tenant hereby leases from Landlord, the commercial space located at [Property Address], consisting of approximately [Square Footage] rentable square feet (the "Premises").
- **1.2 Permitted Use:** Tenant shall use and occupy the Premises solely for [Specific Permitted Use, e.g., high-end retail apparel sales / general administrative offices] and for no other purpose whatsoever without the prior written consent of Landlord.

2. TERM & RENEWAL

- **2.1 Initial Term:** The term of this Lease shall be for [Number] years (the "Term"), commencing on [Commencement Date] (the "Commencement Date") and expiring on [Expiration Date] (the "Expiration Date"), unless sooner terminated in accordance herewith.
- **2.2 Holdover:** If Tenant remains in possession after the Expiration Date without express written approval, Tenant shall be deemed a tenant-at-sufferance, paying Base Rent at **two hundred percent (200%)** of the rate in effect immediately prior to expiration, plus all Additional Rent.

3. RENT & TRIPLE NET (NNN) OBLIGATIONS

Lease Exercise: Building Context Slowly

- Type into the prompt box:

Ask 5 client questions

Lease Exercise: Building Context Slowly

- My result

(from Google Gemini):

To ensure this lease is fully customized to your specific property and business risk tolerance before sending it to the tenant, here are 5 quick client intake questions:

1. **What is the tenant's specific line of business?**
   (This allows us to tailor the "Permitted Use" clause and add specific operational rules regarding noise, hazardous materials, or trash disposal.)
2. **How will Tenant Improvements (TI) be handled?**
   (Are you delivering the space "as-is," providing a cash TI Allowance, or doing the build-out yourself?)
3. **Are you requiring a Personal Guarantee?**
   (If the tenant is an LLC or corporation, will an individual owner be personally on the hook for rent and default damages?)
4. **Will there be any renewal or extension options?**
   (If so, how many years, and how will rent increases be calculated—fixed percentage, CPI inflation index, or fair market value?)
5. **Is the property part of a larger multi-tenant complex or shopping center?**
   (If yes, we should add rules around shared parking, signage rights, hours of operation, and common area maintenance [CAM] allocation.)

Takeaway – Iteration Beats "One-Shot"

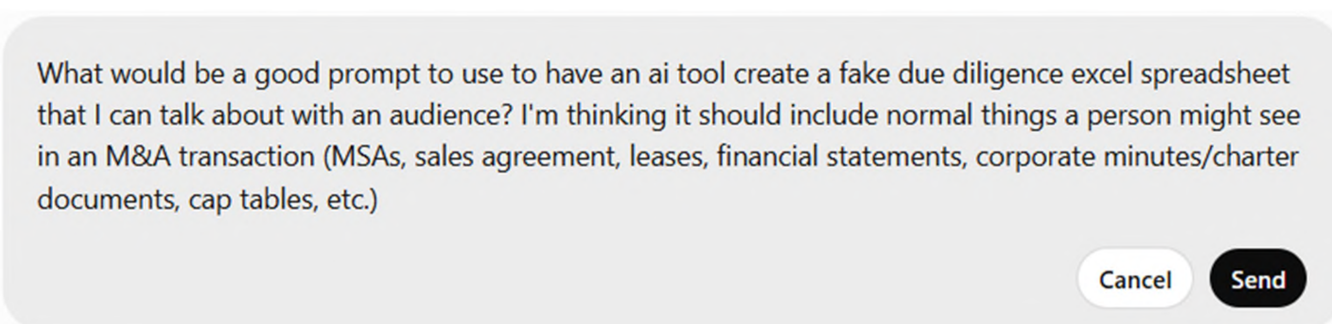
1. The agreement type narrowed the subject.
2. The client role and "commercial" changed the perspective.
3. PA law flagged "Confession of Judgment" (allowed in about 10 states for commercial leases).
4. Drafting was done **after** stating client role and choice of law.
5. Questions to ask the client → finish tailoring the agreement.

ABA/PA Rule 2.1: The lawyer must exercise independent professional judgment and provide candid/wholistic advice.

Example

Simulated Diligence: Tracker

- What I typed into ChatGPT Enterprise :



Simulated Diligence: Tracker

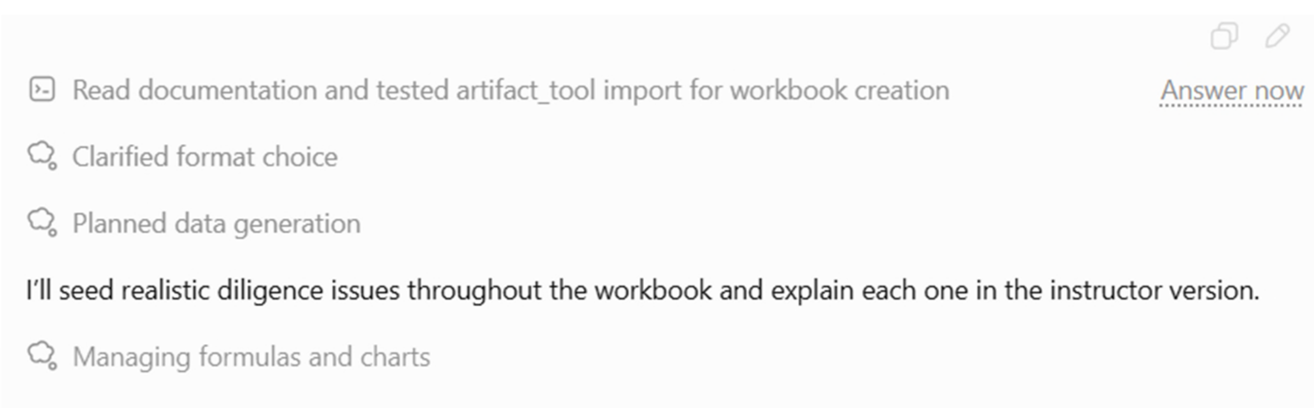
- What I received:

Create and attach a professionally formatted Excel workbook for a fictional buyer-side M&A due diligence training exercise. The transaction is "Project Lantern," a proposed $45 million stock purchase of a privately held Pennsylvania-based B2B software and logistics-services company. This is entirely fictional training material. Do not use or imitate any real company, person, customer, address, account number, or confidential information. Create an actual .xlsx file, not merely a written description or Markdown table. PURPOSE The workbook will be shown during a continuing legal education presentation. It should resemble a realistic virtual data room and diligence tracker while remaining simple enough for an audience to understand on screen. CREATE THESE WORKSHEETS 1. READ ME Include: - A brief description of the fictional transaction. - A conspicuous notice stating: "FICTIONAL TRAINING MATERIAL — NOT CLIENT DATA." - A legend explaining status, priority, and risk ratings. - A statement that all findings require attorney verification. 2. DASHBOARD Show: - Total documents by category. - Documents received, missing, draft, unsigned, expired, or superseded. - Open diligence requests. - High-, medium-, and low-priority issues. - Contracts requiring consent or notice. - Documents expiring within 90 and 180 days. Use simple formulas and charts that update from the other worksheets. 3. DATA ROOM INDEX Create approximately 55 fictional documents. Include these columns: - Document ID - Category - Subcategory - Document title - Document description - Relevant entity - Counterparty - Document date - Effective date - Expiration date - Status - Uploaded? - File name - Responsible reviewer - Priority - Related request number - Notes Use categories including: - Corporate organization - Capitalization and equity - Material customer contracts - Vendor and supply contracts - Sales and distribution agreements - Real estate and leases - Financial statements - Tax - Debt and financing - Employment and benefits - Intellectual property - Data privacy and cybersecurity - Litigation and regulatory - Insurance - Related-party transactions Include realistic examples such as: - Articles of incorporation and amendments - Bylaws - Board and shareholder minutes - Stock ledger - Capitalization table - Option and equity plans - Customer master services agreements - Statements of work - Sales and reseller agreements - Vendor and software-license agreements - Nondisclosure agreements - Office and warehouse leases - Lease amendments - Audited and unaudited financial statements - Monthly financial statements - Accounts-receivable aging - Accounts-payable aging - Tax returns - Debt agreements - Employment and contractor agreements - Intellectual-property assignments - Trademark and domain-name schedules - Privacy and information-security policies - Insurance policies - Litigation summaries 4. MATERIAL CONTRACTS REVIEW Create approximately 18 fictional contracts. Include these columns: - Contract ID - Related document ID - Contract type - Counterparty - Effective date - Initial term - Renewal provision - Expiration date - Annual contract value - Percentage of target revenue - Termination rights - Assignment restrictions - Change-of-control provision - Consent required? - Notice required? - Exclusivity - Most-favored-customer provision - Indemnification - Limitation of liability - Data-security obligations - Governing law - Key issue - Recommended follow-up - Reviewer status Include a mixture of: - Customer MSAs - Statements of work - Sales agreements - Reseller and referral agreements - Vendor agreements - Software licenses - Cloud-service agreements - Nondisclosure agreements - Office and warehouse leases - Equipment leases - Loan agreements - Insurance policies 5. CORPORATE AND EQUITY Include: - Charter and amendments - Bylaws - Board minutes - Shareholder consents - Stock ledger - Capitalization table - Equity incentive plan - Option grants - Warrants or convertible instruments - Subsidiaries - Good-standing certificates - Foreign qualifications Include columns for: - Document ID - Date - Approval required - Approval located? - Signed? - Current? - Shares or interests affected - Related cap-table entry - Potential issue - Follow-up request 6. FINANCIAL AND TAX Include: - Three years of annual financial statements - Current year monthly statements - Revenue by customer - Accounts-receivable aging - Accounts-payable aging - Deferred revenue - Debt schedule - Working-capital information - Tax returns - Sales-tax filings - Payroll-tax records - Related-party payments Include columns for: - Document ID - Reporting period - Status - Key amount - Comparison amount - Variance - Potential issue - Follow-up request 7. EMPLOYMENT, IP, AND PRIVACY Include: - Employee census - Offer letters - Executive employment agreements - Independent-contractor agreements - Confidentiality and invention-assignment agreements - Equity awards - Benefit plans - Employee handbook - Trademark and domain schedule - Software and source-code ownership - Open-source software policy - Privacy policy - Cybersecurity policy - Security-incident log - Data-processing agreements Include columns for: - Document ID - Person or asset - Agreement or record type - Signed? - Current? - Restrictive covenants - IP assignment? - Personal-data implications - Potential issue - Follow-up request Do not include actual personal information. Use titles such as "Employee 01" and "Contractor 02." 8. REAL ESTATE, ASSETS, AND REGULATORY Include: - Office lease - Warehouse lease - Lease amendments - Equipment leases - Asset schedule - Permits - Licenses - UCC lien information - Insurance coverage - Regulatory correspondence Include columns for: - Document ID - Asset or location - Owner or lessor - Expiration date - Assignment restriction - Consent required? - Permit or license status - Lien status - Potential issue - Follow-up request 9. FINDINGS AND OPEN REQUESTS Create a consolidated diligence tracker. Include these columns: - Issue ID - Request number - Category - Related document ID - Related contract ID - Issue title - Factual observation - Potential buyer concern - Requested follow-up - Risk level - Responsible party - Date raised - Target response date - Status - Seller response - Resolution - Attorney verification status Every finding must cross-reference a document in the workbook. 10. INSTRUCTOR KEY Explain every intentionally seeded issue. Include: - Issue ID - Source document - What the audience should notice - Why it may matter to a buyer - Appropriate follow-up question - Whether the issue is high, medium, or low priority - Which fact must be independently verified INTENTIONALLY SEED 14 DILIGENCE ISSUES Include: - 4 high-priority issues - 6 medium-priority issues - 4 low-priority issues The issues should include: 1. A material customer MSA requiring consent to a change of control. 2. A second customer with a termination right triggered by a change of control. 3. One customer representing more than 25% of annual revenue. 4. A cap table that does not fully reconcile with the stock ledger. 5. An option grant lacking clear board approval. 6. A charter amendment listed but not included in the data room. 7. Two independent contractors lacking signed IP-assignment provisions. 8. A lease requiring landlord consent to the transaction. 9. An expired or incomplete operating permit. 10. A UCC lien that may remain outstanding. 11. An automatically renewing vendor agreement with an approaching notice deadline. 12. A privacy policy that has not been updated after a material business change. 13. An unexplained related-party payment. 14. A financial statement containing a questionable or unsupported EBITDA add-back. Mix obvious and subtle issues. Do not make every problem immediately apparent. DATA QUALITY - Make all documents, dates, figures, and names fictional. - Use realistic dates within the last five years. - Make the transaction data internally consistent except for the intentional diligence issues. - Include complete, missing, unsigned, draft, expired, and superseded documents. - Do not accidentally create inconsistencies that are absent from the Instructor Key. - Do not state definitive legal conclusions. - Describe issues as factual observations, potential concerns, and questions requiring attorney review. - Every issue in the Instructor Key must appear in the underlying workbook. - Every high-priority issue must have a corresponding open request. EXCEL FORMATTING - Use a professional navy and light-blue color palette. - Add formatted Excel tables and autofilters. - Freeze header rows. - Wrap long text. - Use readable column widths. - Add dropdown menus for status, priority, and risk level. - Use conditional formatting for: - High-, medium-, and low-risk issues - Missing documents - Overdue requests - Expired documents - Contracts expiring within 90 days - Add formulas for: - Days until expiration - Days requests are outstanding - Counts by status and risk level - Include hyperlinks between issue rows and their source-document rows. - Do not use macros. - Place "FICTIONAL TRAINING MATERIAL" in the header of every worksheet. Create two copies: 1. An attendee version without the Instructor Key. 2. An instructor version containing the Instructor Key.

Simulated Diligence: Tracker

- I submitted that prompt…

Thinking…



Simulated Diligence: Tracker

- The output:

tinyurl.com/ESCM2026

Percentage of target revenue	Termination rights	Assignment restrictions	Change-of-control provision	Consent required?	Noti requir
27.9%	**Termination for uncured material breach**	**Assignment requires consent; change of control treated as assignment**	**Prior written consent required before direct or indirect change of control**	**Yes**	**Yes**
7.5%	**Can terminate if MSA terminates**	**Follows MSA**	**Follows MSA**	**Yes**	**Yes**
16.4%	Customer may terminate within 60 days after change-of-control notice	Assignment to successor permitted unless competitor	Notice required; termination right triggered by change of control	No	Yes
11.4%	Standard termination for breach	Assignment permitted to successor in merger or sale of substantially all assets	No separate change-of-control right	No	No
8.6%	Standard termination for breach	Consent required for assignment except affiliate or successor	No express change-of-control provision	No	No
3.9%	No convenience termination	Follows standard terms	No express change-of-control provision	No	No
0.0%	None	No assignment without consent	No change-of-control provision	No	No
2.6%	Termination for nonpayment or breach	Assignment permitted to affiliate or successor	No consent required for stock sale	No	No
0.0%	Follows hosting agreement	Follows hosting agreement	Follows hosting agreement	No	No
1.2%	Termination for convenience only at renewal	Assignment requires consent, not to be unreasonably withheld	No express change-of-control right	No	Yes
0.3%	License terminates if scope exceeded	No sublicensing without consent	No express change-of-control right	No	No
0.2%	Default remedies include repossession	Consent needed for assignment of leased equipment	No consent for stock sale	No	No
2.9%	Either party may terminate on renewal	Assignment permitted to successor with notice	Notice required only	No	Yes
0.2%	Expired unless renewed	No assignment language	No change-of-control provision	No	No
0.8%	**Landlord default remedies**	**Consent required for transfer or indirect control change**	**Indirect change of control requires landlord consent**	**Yes**	**Yes**
0.0%	**Change of control is event of default unless debt repaid**	**Collateral package secured by UCC filings**	**Debt payoff or lender consent required**	**Yes**	**Yes**

READ ME | Dashboard | Data Room Index | Material Contracts Review | Corporate and Equity | Financial and Tax | Employment IP Privacy | Real Estate Assets Reg | Findings and Open Requests | Instructor Key

Review – Extract First, Then Analyze

- Verify relevant cited provisions
  - Conduct a manual review of X% of top material contracts
- Follow data-room, engagement-letter, and client restrictions
  - Data rooms might prohibit AI, client may require consent
- Verification is key - have a defensible review process
  - "Does this process reflect reasonable professional care and appropriate attorney supervision?”

- ABA/PA Rule 1.5: Charge reasonable fees – maybe fixed fees for certain work
- ABA/PA Rules 5.1 and 5.3: Supervise workflow/team and AI output

Thank you & Questions

Key Takeaways or Call to Action

- Review terms of the AI tool
- Practice, Practice, Practice
- Verify the Outputs

- Questions???

Let's stay connected

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