

**PITTSBURGH,
PENNSYLVANIA**

600 Grant St.
44th Floor
Pittsburgh, PA 15219

P: 412.566.6049

F: 412.566.6099

akwak@eckertseamans.com

PRACTICE AREAS:

[Construction](#)

[Litigation](#)

[Antitrust & Competition Law](#)

[Artificial Intelligence, Robotics,
and Autonomous Transportation
Systems](#)

STATE ADMISSIONS:

Pennsylvania

COURT ADMISSIONS:

U.S. District Court for the
Western District of Pennsylvania

U.S. District Court for the
Northern District of Ohio

U.S. Court of Appeals for the
Sixth Circuit

U.S. Court of Appeals for the
District of Columbia Circuit

EDUCATION:

J.D., Boston College Law School,
2005; Editor-in-Chief, *Journal of
Law & Social Justice* (formerly
Third World Law Journal)

B.A. in psychology, with honors,
Brown University, 2002



Audrey K. Kwak

MEMBER

Audrey Kwak is an experienced litigator in the area of commercial business disputes, with a particular focus on handling high-stakes construction and commercial contract disputes. Her practice involves the representation of contractors, suppliers, and owners, including small business and disadvantaged business enterprises, service-disabled veteran-owned businesses, and women-owned small businesses, in the resolution of disputes that commonly arise on private and public construction projects. Such matters include issues relating to procurement, project management, nonpayment, delay, mechanics' liens, and defective work.

In addition to her construction law practice, Audrey frequently counsels clients on compliance issues and how to best prevent disputes regarding commercial contract, antitrust, and intellectual property matters.

REPRESENTATIVE MATTERS

- Represented plaintiff contractor in trade secret litigation against former employee and competitor employer; member of trial team that prevailed at trial, resulting in a multimillion-dollar jury award.
- Successfully secured payment for subcontractor for delay damages incurred in completing public project.
- Represented small woman-owned business enterprise in appeal of adverse size determination; successfully secured reversal of determination.
- Represented metals-supplier in antitrust action; member of multi-defendant defense team that secured dismissal of action in preliminary stages of litigation.
- Represented client corporation in defense of dispute involving alleged breaches of asset purchase agreement, resulting in favorable defense outcome after bench trial.
- Regularly counsel contractors and subcontractors as to negotiation of contract terms, and how to cost-effectively and efficiently resolve payment disputes with private and public owners.
- Work with small business owners, disadvantaged businesses enterprises, and minority and women-owned business enterprises in securing and preserving necessary

certifications for award of government contracts.

- Handle various intellectual property disputes and litigation on behalf of manufacturers, contractors, and suppliers, including patent infringement litigation, patent false marking suits, and opposition proceedings before the Trademark Trial and Appeal Board (TTAB).

PROFESSIONAL AFFILIATIONS

- Allegheny County Bar Association Construction Law Section; Asian Attorneys Committee (Former Chair, 2009-2011); Diversity Collaborative Committee
- Women's Bar Association of Western Pennsylvania, Treasurer (2010-2012)

COMMUNITY INVOLVEMENT

- Reading is FUNdamental Pittsburgh, elementary school reading mentor

AWARDS AND RECOGNITION

- Named a "2015 Fast Tracker" by the *Pittsburgh Business Times*
- Selected for inclusion in *Pennsylvania Super Lawyers – Rising Star (2012 – 2015)*

NEWS AND INSIGHTS

PUBLICATIONS

- ["Your Company's Project Record Retention Policy: What Every Contractor \(and Engineer and Owner\) Needs to Know"](#), *Breaking Ground Magazine*, May/June 2019.
- ["Watch Those Waivers: Ambiguity in Release Results in Loss of Claim"](#), *Construction Executive Magazine*, January 2016.
- ["Incompetence Is Not Material: Contractor's Defective Performance Doesn't Excuse Owner's Noncompliance With Pre-Termination Notice to Cure"](#), *Construction Executive Magazine and Eckert Seamans' Construction Law Update*, September 2015 and Spring 2015, respectively.
- ["How You Could End Up Paying the Price of a Sub's Noncompliance with a PLA"](#), *Construction Claims Monthly*, September 2014.
- ["Your company's project record retention policy: What every contractor \(and engineer, and owner\) needs to know."](#) *Eckert Seamans' Construction Law Update*, Spring 2019.
- ["Liquidated damages provisions in Colorado: Alternatives allowed."](#) *Eckert Seamans' Construction Law Update*, Spring 2018.
- ["Court holds the door open for bad faith claims against sureties."](#) *Eckert Seamans' Construction Law Update*, Fall 2017 and *Construction Executive Risk Management*, November 2017.

- "Viewpoint: Precise Contract Language Is the Key to Avoiding Liquidated Damages," *Engineering News-Record*, March 2017.
- "Owner's termination for convenience will not preclude entitlement to liquidated damages," *Dimensions Magazine* (New Jersey Builders Association), Winter 2017.
- "[Owner's termination for convenience will not preclude entitlement to liquidated damages.](#)" *Eckert Seamans' Construction Law Update*, Fall 2016.
- "A West Virginia agency's improper rejection of low bid for immaterial defect & it's implications on public contractors," *Construction Business Owner Magazine*, November 2016.
- "[Redefining what is waivable: West Virginia agency's rejection of low bid for immaterial defect was improper.](#)" *Eckert Seamans' Construction Law Update*, Spring 2016.
- "[Watch what you waive: Ambiguity in release results in loss of claim.](#)" *Eckert Seamans' Construction Law Update*, Fall 2015.
- "[Warning to federal government prime contractors and their sureties: No notice to cure, means no right to a setoff.](#)" *Construction Executive Magazine*, April 2015; Allegheny County Bar Association's *Construction Law Section Newsletter*, Winter 2015; and *Eckert Seamans' Construction Law Update*, Fall 2014.
- "[Caution to general contractors and construction managers: How you could end up paying the price of a subcontractor's noncompliance with a PLA, and how to avoid doing so.](#)" *Eckert Seamans' Construction Law Update*, Spring 2014.
- "[Risk allocation in construction contracts: The importance of a differing site conditions clause.](#)" *Eckert Seamans' Construction Law Update*, Fall 2013.
- "[Negotiating change orders on federal contracts: Consultant and legal fees may be recoverable contract administration costs.](#)" *Eckert Seamans' Construction Law Update*, Spring 2013.
- "Small business advisory: Beware of inadvertent 'affiliation'" *Eckert Seamans' Construction Law Update*, Fall 2012.
- "[Waiving claims, one payment application at a time.](#)" *Eckert Seamans' Construction Law Update*, Spring 2012.
- "[To owners and general contractors: Before termination, review the bond.](#)" *Eckert Seamans' Construction Law Update*, Fall 2011.
- "[The Government made me do it": Government contractor immunity and limiting third-party liability for work on government projects](#)" and "[Administrative Changes to litigating construction disputes in Allegheny County, PA.](#)" *Eckert Seamans' Construction Law Update*, Spring 2011.
- "[Read before you sign: preventing the inadvertent waiver of claims.](#)" *Eckert Seamans' Construction Law Update*, Fall 2010.
- "The Marcellus Shale boom: protecting contractors' interests in the gas 'gold rush'", *Eckert Seamans' Construction Law Update*, Fall 2009.
- "Misrepresentation claims against architects and engineers," *Eckert Seamans' Construction Law Update*, Spring 2009.
- "Limiting Bilt-Rite: The Superior Court dismisses a contractor's claims against a utility company for negligent

misrepresentation," *Eckert Seamans' Construction Law Update*, Winter 2009.

MEDIA COVERAGE

- "[Fast Tracker: Audrey Kwak, Eckert Seamans Cherin & Mellott](#)," Pittsburgh Business Times, June 22, 2015.

SPEAKING ENGAGEMENTS

- "Patent Marking," co-presenter, Eckert Seamans' Continuing Legal Education (CLE) Seminar, August 2010.
- "Protecting Your Interests: Legal Developments in a Changing Business Climate," panelist, Eckert Seamans' CLE, August 2008.
- "Perspectives into Legal Developments," panelist, Eckert Seaman's CLE, August 2007.