

**PITTSBURGH,
PENNSYLVANIA**

600 Grant St.
44th Floor
Pittsburgh, PA 15219

P: 412.566.6866

F: 412.566.6099

kpallen@eckertseamans.com

**CHARLESTON,
WEST VIRGINIA**

214 Capitol St.
Charleston, WV 25301

P: 304.720.5533

kpallen@eckertseamans.com

PRACTICE AREAS:

[Litigation](#)

[Appellate](#)

[Securities Litigation](#)

[Telephone Consumer Protection Act \(TCPA\)](#)

STATE ADMISSIONS:

Pennsylvania

West Virginia

COURT ADMISSIONS:

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

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

U.S. District Court for the
Southern District of West Virginia

U.S. District Court for the Central
District of Illinois

U.S. Court of Appeals for the First
Circuit

U.S. Court of Appeals for the
Third Circuit

U.S. Court of Appeals for the
Federal Circuit

Supreme Court of the United
States

EDUCATION:

J.D., University of Pittsburgh
School of Law, 1995

B.A., Yale University, 1992



Kevin P. Allen

MEMBER

Kevin Allen concentrates his practice on commercial litigation with an emphasis on contractual disputes and business torts, as well as First Amendment and defamation disputes. In commercial cases, he represents a wide range of clients in contractual disputes, shareholder and securities cases, and matters involving alleged business torts. In defamation cases, Kevin's experience includes the defense of a senior corporate executive accused of slander, in addition to the prosecution of a libel case on behalf of an individual against a foreign media company and a local individual. He frequently appears before state and federal courts in western Pennsylvania. In addition to his first-chair bench and jury trial experience, Kevin has argued appellate cases before the Third Circuit, the Federal Circuit, and Pennsylvania's Supreme, Superior, and Commonwealth Courts.

In addition to his litigation practice, Kevin also counsels clients from various industries when legal questions intersect with clients' business issues. Kevin has experience working with clients who are manufacturers, suppliers, and distributors and in industries that include energy, telecommunications and Internet, beauty care, food manufacturing, financial, insurance, funereal, marketing and branding, and hospitality.

Kevin is also the author of the treatise, *The Attorney-Client Privilege and Work-Product Doctrine in Pennsylvania*, now in its fifth edition. Kevin has served as a court-appointed special discovery master to address privilege and work-product issues. He also advises clients and in-house legal departments on best practices for establishing and preserving the attorney-client privilege.

REPRESENTATIVE MATTERS

COMMERCIAL LITIGATION

- Represented Pittsburgh-based manufacturer in injunction proceedings where court blocked competitor's \$58 million acquisition of manufacturer's distributor. The Pennsylvania Superior Court affirmed the preliminary injunction. *York Group v. Yorktowne Caskets, Inc.*, 924 A.2d. 1234 (Pa. Super. Ct. 2007).
- Represented Pittsburgh-based paint manufacturer in three-week federal trial involving multi-million dollar claims of breach of contract, defamation and breach of covenant not to compete. Court declared the manufacturer the "prevailing

party" and awarded more than \$900,000 for reimbursement of attorneys' fees and costs. *PPG Industries, Inc. v. Zurawin, C.A.* No. 95-2078 (W.D. Pa.). The United States Court of Appeals for the Third Circuit affirmed, 52 Fed. Appx. 570, 2002 WL 31289285 (3d Cir. 2002).

- Represented landowner in successful defense against proposed condemnation of private property, essentially nullifying on constitutional grounds a centuries-old Pennsylvania statute. *In re O'Reilly*, 100 A.3d 689 (Pa. Commw. Ct. 2014), *appeal denied* (Pa. 2015).
- Obtained, from the Allegheny County Court of Common Pleas, summary judgment and a damage award of more than \$4,600,000 on behalf of an industrial corporation deprived of contractually-guaranteed royalty payments.
- Represents energy company in cases involving alleged violations of Telephone Consumer Protection Act.
- Represented leading life insurance company in numerous federal and state actions involving claims of fraudulent sales practices.
- Represented defendant in precedent-setting case establishing that no right to a jury trial exists under Pennsylvania's Consumer Protection Law. See *Ihnat v. Povar*, 26 PLW 979 (2003).

DEFAMATION-FIRST AMENDMENT

- Represents both plaintiffs and defendants in defamation actions and also advises subjects of and publishers of alleged defamatory statements regarding their rights and options concerning those statements.
- Represented publicly held corporation in a federal court action and appeal involving alleged defamatory statement by a senior executive of the corporation.
- Represented a plaintiff in a state court defamation action that drew national and international attention where defendants were a prominent media entity and an individual defendant.
- Obtained a jury verdict in favor of a schoolteacher who was defamed in the workplace.
- Obtained a jury verdict in favor of a forensic investigative firm accused of malicious prosecution following the firm's investigation of a suspicious fire.

SECURITIES AND SHAREHOLDER LITIGATION

- Represented corporate officer and director in actions where minority shareholders claimed damages from officer's multi-million dollar sale of stock. See *Pitterich v. Styling Technology Corp.*, 148 P.L.J. 244 (2000) (dismissing claims based on defendant's alleged conduct as a corporate director or officer).
- Obtained, in a related proceeding, a complete defense verdict in a court-mandated federal arbitration where claimant sought in excess of one million dollars in damages from selling shareholder.

- Obtained summary dismissal of federal securities and RICO claims directed against former bank president.
- Represented corporate officer and director in action by debt security holder which alleged that officer/director abused office for personal gain. Obtained summary dismissal of action in federal court. The U.S. Court of Appeals for the Third Circuit affirmed that decision, holding that there are no fiduciary duties owed to debt security holders.

COMMUNITY INVOLVEMENT

- Pittsburgh History & Landmarks Foundation, Board of Trustees – Vice-Chair
- Yale Alumni Club of Pittsburgh, Board of Governors

AWARDS AND RECOGNITION

- Selected for inclusion in *Pennsylvania Super Lawyers*

NEWS AND INSIGHTS

PUBLICATIONS

Attorney-Client Privilege

- "[PA. Court Muddles Privilege And Work-Product Waters.](#)" Law360, July 10, 2019.
- "[No Work-Product Protection for Notes Written by Investigator Hired by Counsel.](#)" *The Legal Intelligencer*, December 3, 2018.
- "[In Camera Review of Privileged Documents: Is It Both Mandatory and Immediately Appealable?](#)" *The Legal Intelligencer*, February 8, 2018.
- "Federal Court Endorses 'Functional Equivalent' Doctrine for Purpose of Pennsylvania's Attorney-Client Privilege," ACBA's *Lawyers Journal*, May 12, 2017.
- "Carefully Guard the Confidentiality of Privileged Communications," PBI Now, March 21, 2017.
- *The Attorney-Client Privilege and Work-Product Doctrine in Pennsylvania*, Fifth Edition (PBI Press 2016).
- "[In-house Attorney-Client Privilege and 'Lawyerly Things.'](#)" *Corporate Counsel*, January 2015.
- "[Insurance Counsel and the Attorney-Client Privilege: Who is the Client?](#)" *The Legal Intelligencer*, February 28, 2013; *Eckert Seamans' Legal Update*, Spring 2013.
- "In re Teleglobe: The Attorney-Client Privilege and In-House Counsel," Washington Legal Foundation, November 30, 2007.
- "White Collar Crime Policy on Legal Fee Payment Implicates Civil Liberties," Washington Legal Foundation, June 8, 2007.
- "The Attorney-Client Privilege and the 'Complete Lawyer': More than Mere Legal Advice," Law.com, March 6, 2007.
- "Attorney-Client Privilege: Everyday Rules from a High-Profile Case," Law.com, October 3, 2006.

Defamation

- "The Right to Remain Anonymous – Should Anonymous Speech Be Protected in the Age of the Internet," *Pennsylvania Lawyer*, July/August 2011 issue.
- "Delimiting Defamation: Pennsylvania Supreme Court Protects Reputation From Freedom of Speech Defense," *Philadelphia Lawyer*, Summer 2008.
- "Is the 9th Circuit Reining in the CDA?" Law.com, September 11, 2007.
- "Federal Law Protects Internet Companies from Blame for Content," Law.com, July 3, 2007.
- "Multiple Hits, Single Publication," Law.com, June 15, 2007.
- "The Oddity and Odyssey of 'Presumed Damages' in Defamation Actions under Pennsylvania Law," *42 Duq. Law Review* 495 (Spring 2004).

Miscellaneous

- "INSIGHT: Third Circuit Continues to Rein in Runaway TCPA Claims," co-author, *Bloomberg Law*, July 3, 2018.
- "[Intangible Concrete- Spokeo, Inc. v. Robins and Constitutional Standing.](#)" co-author, *Internet Telephony*, September 6, 2016.
- "[Rules of the Game: Tortious Interference With Contract.](#)" *The Legal Intelligencer*, October 30, 2013.
- "Contractual Fee Shifting Clauses – How to Determine 'Prevailing Party' Status," *Pennsylvania Bar Assoc. Quarterly*, LXXIV, No. 4 at 178 (October 2003).

MEDIA COVERAGE

- "Special Master Could Play Big role in Trump Lawyer Doc Review," *Corporate on Bloomberg Law*, April 2018.
- "Paterno Ruling Highlights Broad Pa. Work Product Protections," *Law360*, July 28, 2017.
- "First Amendment Violation? Facebook's Arguments on Alleged TCPA Violations May Fall Flat, Say Experts," *Communications Daily*, November 7, 2016.
- "Pennsylvania court rules against owner of landlocked plot seeking road across neighbor's land," *FoxBusiness.com*, August 29, 2014.
- "Court Eyes Discovery of Attorney-Expert Communication," *The Legal Intelligencer*, May 28, 2013.

SPEAKING ENGAGEMENTS

- "Attorney-Client Privilege and Related Ethics Issues for Corporate Counsel – A Case Study," presenter, Eckert Seamans' Continuing Legal Education Seminar, August 2018.
- "Attorney/Client Privilege," presenter, Eckert Seamans' Continuing Legal Education Seminar, August 2017.
- "Attorney-Client Privilege and Work Product Issues for Corporate Counsel," presenter, Eckert Seamans' Continuing Legal Education Seminar, August 2016.

- "The Attorney-Client Privilege and the Work-Product Doctrine in Pennsylvania," Pennsylvania Bar Institute 21st Annual Employment Law Institute, April 2015.
- "Preparing a Witness to Testify," Pennsylvania Bar Institute, March 30, 2015.
- "Pennsylvania Attorney-Client Privilege and Work-Product Doctrine," Pennsylvania Bar Institute Continuing Legal Education, December 2014.
- "Attorney-Client Privilege and Work-Product Issues for Corporate Counsel and Clients," presented at Eckert Seamans' Continuing Legal Education Seminar, August 2014.
- "Tortious Interference with Contract: Walking or Crossing the Line Between Vigorous Competition and Unfair Business Conduct," CLE seminar for in-house counsel presented by *The Legal Intelligencer*, June 2012; presenter at the Philadelphia Bar Institute 16th Annual Business Lawyers Institute, November 2010; Seminars for in-house counsel and corporate executives in Philadelphia, May 2010, and in Pittsburgh, October 2009.