

# Saskia ASAMURA

## Shareholder

### LOS ANGELES

**T** 213.626.8484

**E** sasamura@rwglaw.com



Saskia Asamura focuses on complex public sector litigation and appeals. She has devoted her career to representing public agencies with skill, passion, and meticulous attention to detail. Saski specializes in inverse condemnation, which spans all manner of lawsuits: physical damage to property from flooding, landslides, sinkholes, extreme weather events, and claims of defective or failed public improvements; precondemnation damage arising out of delays or other conduct during the course of public projects; impairment of access and interference with abutter's rights including views; regulatory takings claims challenging local ordinances and land use decisions, among others.

In addition to inverse condemnation, Saski's practice extends to all types of public sector litigation with special focus on constitutional and civil rights claims, the Government Claims Act, employment litigation, and construction defects.

Saski is a seasoned litigator with over 30 years' experience who employs sophisticated law and motion practice to achieve favorable results for clients in challenging cases. The vast majority of lawsuits are decided based on written briefs, both in the trial court and on appeal. The art of writing is in Saski's DNA. She skillfully uses the written word to present her client's case clearly and persuasively. She finds and lays out the evidence to tell the client's story and explains how the law applies to persuade the court to rule for her client. Whether defending familiar claims brought against public agencies or novel constitutional issues of first impression, Saski applies her creativity and diligence to the task to represent the client's interests and further the client's goals.

## WORK FOR CLIENTS

Saski handles civil litigation in the federal district courts and state trial courts, and the courts of appeal, representing public agencies across California in suits for inverse condemnation, constitutional challenges, civil rights, challenges to

### PRACTICE AREAS

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Litigation

### FOCUS AREAS

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Constitutional & Civil Rights  
Issues

Inverse Condemnation

Land Use Planning & Zoning  
(Litigation)

Litigation (Labor &  
Employment)

Writs & Appeals

### EDUCATION

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J.D., University of California,  
Los Angeles, School of Law

BSc (Hons), London School of  
Economics

code enforcement actions, breach of contract, dangerous condition of public property, land use disputes, challenges to local taxes, and other municipal and land use litigation. Saski also defends public agencies in employment litigation. With public agency employers, this extends far beyond FEHA claims for discrimination, harassment and retaliation to include First Amendment and whistleblower claims, claims under the Public Safety Officers Procedural Bill of Rights Act, challenges brought under local charters, ordinances and MOUs, and disputes over benefits and vested rights.

Saski defends cities, former redevelopment agencies, successor agencies, and other public agencies and public officials in civil litigation, writs, and appeals. Representative clients have included the County of Ventura, and the cities of Artesia, Beverly Hills, Brea, Buena Park, Calimesa, Carson, Compton, Fairfield, Hawthorne, Indio, Industry, Norwalk, Pasadena, Rancho Cucamonga, Rancho Palos Verdes, San Juan Capistrano, Santa Ana, Temecula, Upland, Vernon, Vista, West Hollywood, and Westminster.

Saski represents public agencies as plaintiffs in construction defect litigation and suits to recover on surety bonds. Representative clients include the cities of Indio, Palmdale, and Temecula, and public agencies such as the Agoura Hills/Calabasas Community Center Joint Powers Authority and the Burbank-Glendale-Pasadena Airport Authority.

Saski also represents a variety of public agencies in advisory and administrative matters including the Palm Desert Housing Authority, and various water districts.

## EXPERIENCE

### HIGHLIGHTED REPRESENTATIONS

Sampling of published appellate victories:

- ▶ ***Gonzales v. City of Norwalk***, 17 Cal.App.5th 1295 (2017), reh'g denied, review denied (3/14/18). Proposition 218 class action suit challenging the City's utility user's tax (UUT) on cell phone service. After successive challenges to the pleadings, the trial court sustained the City's demurrer without leave to amend. In affirming, the court of appeal held that a 2007 ordinance - adopted by the City to clarify its UUT following an IRS notice interpreting provisions of the federal tax code - made a technical change to the City's municipal code. However, it did not "impose, extend or increase" the UUT and therefore, it did not violate Proposition 218 or Proposition 62 as a matter of law. The California Supreme Court denied review. This is an important decision for California cities and sets a precedent for addressing similar "copy cat" suits now pending in various trial courts around the state.
- ▶ ***Mercury Casualty Co. v. City of Pasadena***, 14 Cal.App.5th 917 (2017), reh'g denied, review denied 11/15/17. Inverse condemnation case involving damage from a tree that fell in a severe windstorm. The appellate court reversed judgment for Mercury after a trial, and ordered judgment to be entered for city, because the tree that fell was not a work of public improvement as "there was no evidence it was planted as part of a planned project

or design serving a public purpose or use.”

- ▶ **Boxer v. City of Beverly Hills**, 246 Cal.App.4th 1212 (2016). Inverse condemnation case involving impairment of views from trees in a public park. The appellate court held property owners had no constitutional right to an unimpaired view from private property.
- ▶ **Alvis v. County of Ventura**, 178 Cal.App.4th 536 (2009). In the La Conchita landslide litigation brought by over 80 plaintiffs, the appellate court affirmed the design immunity defense to plaintiffs’ claim for dangerous condition of public property, finding that the county’s discretionary approval of construction of a wall was sufficiently informed and the design was sufficiently reasonable for design immunity, and that no changed condition defense to design immunity applied.

Sampling of appellate victories (unpublished):

- ▶ **Monks v. City of Rancho Palos Verdes**, 2013 WL 1248251. Court affirmed judgment for the city in an inverse condemnation action by property owners who alleged the city exacted a regulatory taking under Cal. Const., art. I, § 19 by enacting a landslide moratorium ordinance that precluded them from building homes on their vacant lots in a slide-prone area. Plaintiffs previously settled their temporary takings claims but sought more damages on additional constitutional theories including *Klopping* and de facto taking claims. Saski handled the third appeal, where the appellate court held the city did not have to pay further compensation to plaintiffs for the permanent taking because it provided a constitutionally acceptable alternative remedy: it allowed plaintiffs to build homes on their lots. The court explained that the remedies available where a public agency acts unreasonably in condemning private property for public use are not the same as those when property owners prevail in a regulatory takings case.
- ▶ **JR Enterprises v. City of Rancho Cucamonga**, 2009 WL 2929399. Court affirmed summary judgment for the city in an inverse condemnation, nuisance, and dangerous condition lawsuit alleging property damage to two mobile homes when they fell into a large sinkhole created by the failure of a privately-owned pipeline beneath the trailer park. The pipeline was installed more than 30 years before and conveyed flow from upstream hillside property and onsite. No easement or dedication was ever offered or accepted for the pipeline and neither the city, nor the county before the city incorporated, maintained, improved or repaired it. Although it became a part of the public drainage system, that fact alone does not convert it into a public use. Saski handled the case throughout the trial court proceedings and on appeal.
- ▶ **Harrison v. City of Brea**, 2010 WL 4926212. Court affirmed sustaining of demurrer without leave to amend in a FEHA complaint for harassment, discrimination, and retaliation based upon failure to promote and alleged placement on involuntary leave. Plaintiff alleged the city and his supervisors allowed and encouraged harassment “due to his religious beliefs as a Christian” and in retaliation for “whistle blowing about mishandling of controlled substances.” After plaintiff had filed successive amendments, the appellate court affirmed dismissal of all of his claims on both procedural and substantive grounds. Saski handled the case throughout the trial court proceedings and on appeal.

Representative trial court victories:

► **Inverse Condemnation and Civil Rights:**

Saski represented the County of Ventura in a civil rights lawsuit brought by a property owner who challenged code enforcement action on his massive illegal solid waste dumping operation involving 8,000 truckloads of construction debris that he imported and dumped into pristine canyons overlooking Simi Valley. She drafted and argued countless motions and a writ of mandate in the court of appeal to bar claims against county department heads, which was granted. Saski served as second chair at trial of the county's cross-complaint for an injunction and civil penalties, which resulted in an order requiring the owner to clean up his property and \$21.7 million in statutory penalties under the Public Resources Code - the largest such penalty in California.

Saski successfully represented the City of Rancho Cucamonga in a civil suit arising out of code enforcement action on plaintiff's operation of a large unpermitted junkyard on which he hoarded vast quantities of machinery, vehicles, and hazardous chemicals including battery acid. These activities were also the subject of criminal action. Saski handled the civil case, and obtained judgment for the city after the court sustained a demurrer to all of plaintiffs' claims including inverse condemnation, Government Claims Act and Section 1983 civil rights claims, and injunctive relief.

Saski successfully obtained dismissal of a federal civil rights lawsuit against the County of Ventura and a county official arising out of the issuance of notices of violation against plaintiffs for operating a wedding venue at their property without required zoning entitlements and permits. Plaintiffs also challenged conditions imposed by the Planning Commission on their Conditional Use Permit on due process, equal protection, and First Amendment grounds. The District Court ruled plaintiffs' civil rights claims were barred by their failure to challenge the decision in a CCP § 1094.5 writ of administrative mandate action, plaintiffs failed to allege facts to support their claims of injury, and the county official was entitled to qualified immunity.

► **Employment:**

Saski successfully represented the City of Brea in an employment case by a police officer who challenged his lack of promotion under the Public Safety Officers Procedural Bill of Rights (POBR) and other theories. The trial court granted an Anti-SLAPP motion and dismissed the case, and the city recovered its attorney fees.

Saski successfully represented the City of Compton in an employment case by an employee who sued the city, the Mayor, various city officials, and his immediate supervisor over being rejected from his probationary position after an unsatisfactory performance evaluation. Plaintiff alleged defamation, breach of contract, Government Claims Act and constitutional claims, and sought a name-clearing (*Lubey*) hearing. Following an Anti-SLAPP motion and demurrer, and a series of bizarre procedural actions by the plaintiff, the case was dismissed. Dismissal was affirmed on appeal.

► **Construction defects and surety bond suits on behalf of public entities:**

Saski brought a breach of contract action in U.S. District Court on behalf of the City of Palmdale against a surety for failure to pay on a performance bond after a developer defaulted on its obligations. The bond guaranteed needed public infrastructure including a road linking two master-planned residential development projects, referred to as the Gap Road. Saski filed a summary judgment motion seeking an order finding the surety liable on the bond, which the court granted. This led to settlement of the monetary claims for the full amount of the bond - \$4.9 million. With these funds, the city was able to build the Gap Road linking the two communities and held its ribbon-cutting ceremony on May 12, 2015.

Saski brought a construction defect action on behalf of the City of Temecula against a general contractor, architect, and construction manager over massive leaks and other defects at the Old Town Temecula Community Theater. The general contractor brought in close to 50 subcontractors as cross-defendants. The case was successfully settled for over \$3.4 million, which funded the repairs. The city celebrated the grand re-opening in September 2015.

## NEWS

No Inverse Condemnation Liability for Sewer Backups Where Property Owner Failed to Follow the Law  
08.16.2019

U.S. Supreme Court Expands the Right of Property Owners to Immediately Challenge Land Use Decisions Concerning Their Property in Federal Court  
06.24.2019

Court of Appeal Rejects Proposition 218 Challenge to City Cell Phone Tax  
12.06.2017

Adoption Of Airport Land Use Plan Does Not Support Claims For Regulatory Taking Or Precondemnation Damages  
10.25.2017

Prior MOU Does Not Create a Vested Right to Fully-Paid Retiree Medical Premiums  
09.27.2017