

John “Jack” G. Sestak Jr.

Member



Overview

Mr. Sestak is an attorney with more than 35 years of experience in the areas of general business and commercial litigation and transactions. He is experienced in corporate, administrative, creditors' rights, securities litigation, real estate, employment, professional negligence, and environmental matters, with an emphasis on litigation and disputes in these areas. He has appeared extensively before federal and state courts and administrative agencies.

Contact

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Areas of Focus

- General and Commercial Litigation and Transactions
- Corporate
- Administrative
- Creditors' Rights
- Construction Law and Litigation
- Real Estate
- Employment
- Securities Litigation
- Professional Negligence
- Environmental

Education

J.D., Vanderbilt University Law School (1973)

- Associate Editor, *Vanderbilt Law Review*

B.A., Economics, History, and Political Science, Vanderbilt University (1970)

- Honor Council

Biography

Mr. Sestak is an attorney with more than 35 years of experience in the areas of general business and commercial litigation and transactions. His experience includes corporate, administrative, creditors' rights, securities litigation, real estate, employment, professional negligence, and environmental matters, with an emphasis on litigation and disputes in these areas. Mr. Sestak has appeared extensively before federal and state courts and administrative agencies.

Mr. Sestak has represented small, medium, and large companies in all areas of business and business litigation. He has handled general contract disputes, shareholder and partner disputes, commercial litigation and arbitration proceedings. He has represented owners and contractors in disputes and lawsuits involving construction matters, represented employers in employment litigation and Equal Employment Opportunity Commission (EEOC) matters, litigated cases involving confidentiality and non-solicitation agreements, and represented professionals, including law firms, accounting firms, engineers, and architects, in negligence actions.

Also, Mr. Sestak handles business and commercial transactions of all kinds, providing counsel and advice on business planning as well as dispute resolution, and has represented major financial institutions in dispute resolution and litigation matters.

Admissions

Admitted to Practice

- Arizona (1974)

Court Admission

- U.S. Court of Appeals, Ninth Circuit (1981)
- U.S. Supreme Court (1980)
- U.S. District Court, District of Arizona (1974)

Representative Experience

Litigation Matters

- Handled jury trials and court trials in the Superior Court of Arizona, the U.S. District Court, and the U.S. Bankruptcy Court
- Handled appeals in the Arizona Court of Appeals, the Arizona Supreme Court, and the U.S. Court of Appeals for the Ninth Circuit
- Handled proceedings before administrative agencies, including the EEOC, Securities and Exchange Commission (SEC), the Arizona Corporation Commission, the Arizona Registrar of Contractors, the Arizona Department of Insurance, the Arizona Department of Liquor Licenses and Control, the U.S. Bureau of Alcohol, Tobacco and Firearms, and the Arizona Department of Financial Institutions
- Represented law firms, accounting firms, architects, engineers, and other professionals in various litigation matters, including the defense of class action securities fraud and civil racketeering cases, breach of contract, professional liability, and director and officer cases
- Represented national lending and financial institutions in lender liability cases and cases involving alleged violations of federal and state statutes and regulations
- Represented contractors in cases involving lawsuits both against subcontractors and general contractors and in matters on behalf of subcontractors against general contractors and owners
- Handled complex arbitration matters before the American Arbitration Association, and before arbitrators appointed under the Arizona statutes. Such arbitration proceedings included a breach of contract action against a national retailer on behalf of the operator of one of its contracted retail merchandise stores. Another matter involved claims brought by a minority stockholder relative to the value of the stockholder's share following a merger, and the validity of option and other stock and contract rights
- Defended a security alarm company that was sued by a customer who had suffered a burglary in which the burglars cut the wires of the alarm system, thereby rendering the system inoperable at the time of the burglary. The plaintiff made claims for breach of contract, misrepresentation and negligent representation, seeking damages of approximately \$600,000. Summary judgment was obtained on some of the claims and the matter proceeded to a jury trial on the balance of the claims. A jury verdict was obtained in favor of the alarm company after a two-week trial, and an award of attorneys' fees against the plaintiff was made.
- Represented national professional firm in U.S. District Court on claims of wrongful termination, age

- discrimination, breach of contract, and breach of the covenant of good faith and fair dealing
- Represented attorneys in litigation with other attorneys and in civil suits as well as matters before the State Bar of Arizona
- Defended international company in products liability and negligence cases

Class Action Litigation

- Involved in a variety of class action lawsuits in the state and federal courts, including the defense of professionals in claims brought by investors relative to bond issuances which went into default, and the defense of an international company in several class action cases involving products liability, negligence and fraud claims. The involvement in such cases encompassed class issue discovery and substantive discovery, and preparation and argument of motions in connection with class certification issues, summary judgment and jurisdictional issues
- Represented a national automobile finance company in class action claims involving allegations of violations of the Consumer Leasing Act
- Represented a national lending institution and defended two adversary proceedings in the United States Bankruptcy Court brought by the borrowers who defaulted on their loans, filed bankruptcy to prevent foreclosure/trustee's sales, and then brought adversary proceedings against the lender. In one case, summary judgment was obtained on behalf of the lender. In the second case, a settlement was entered into under which the borrower brought current all payments, costs and interest. The loan was reinstated and stipulated to a dismissal of the adversary proceeding
- Represented a national banking institution in a borrower default situation involving a suit for deficiency balance with regard to commercial property following a trustee sale. The case included counterclaims for lender liability. Summary judgment motions brought by both parties were prepared and presented, some granted in part and some denied in part. Shortly prior to trial, the case was settled

Corporate and Transactional Matters

- Represented a regional petroleum products company in several acquisitions, primarily asset acquisitions, which involved the preparation of documentation and negotiation of the actual purchase agreements, the real estate aspects, and the non-competition and consulting agreement aspects
- Represented a variety of clients in other business acquisitions, mergers and combinations. These have included the statutory merger of corporations, and the stock acquisitions and sales of businesses in various industries, including the security alarm industry, cosmetics industry, retail and wholesale products industries

Labor and Employment Matters

- Assisted clients with a variety of labor and employment matters, including advice and counsel to

employers in employment disputes and employment termination situations, and advice and counsel in connection with employee policies, procedures, and manuals

- Handled matters involving claims brought in state and federal courts for wrongful termination, breach of employment agreements, age discrimination and sexual harassment. Such representation includes the handling of such matters before the EEOC and the Arizona Civil Rights Division
- Advised and counseled on issues involving employment agreements, non-competition and non-solicitation agreements, confidentiality, and trade secret agreements
- Written, negotiated and litigated issues involving employment agreements, non-competition and non-solicitation agreements, confidentiality, and trade secret agreements

Media and Presentations

Articles

- Author, "Failure To Perfect A Lien On A Motor Vehicle Within The Time Periods Prescribed By Arizona Statutes Can Result in the Creditor's Loss of Such a Lien-Particularly in Bankruptcy," *Jennings Strouss Client Alert* (July 24, 2006)
- Author, "Unsolicited Fax Advertisements Can Be Costly," (July 1, 2003)

Blogs

- "[Businesses Beware: Don't Get Hooked into Paying for Forms You Don't Need.](#)" *Jennings Strouss Blog* (2017)
- "[Beware of Caller ID 'Spoofing' Scam.](#)" *Jennings Strouss Blog* (2016)
- "[Proposed Overtime Rule Will Not Go Into Effect December 1, 2016.](#)" *Employment Law Times* (2016)
- "[The NLRB's Latest Do's and Don'ts of Employer Handbooks.](#)" *Employment Law Times* (2015)

Presentations

- "Employee Issues," Executives' Association of Greater Phoenix (August 21, 2014)
- "Cyber Liability," Wick Pilcher Insurance (April 2010)

Memberships

American Bar Association

- Member, Litigation Section

State Bar of Arizona

- Member, Trial Practice Section
- Member, Corporate, Banking and Business Section

- Member, Employment Section
- Member, Construction Section

Maricopa County Bar Association (MCBA)

Superior Court Civil Study Committee

Defense Research Institute

Executives Association of Greater Phoenix

- Past President, Board of Directors

City of Phoenix Commission on the Economy (2001 - 2004)

Association of Trial Lawyers of America

Community Involvement

Phoenix Sister Cities

- Member, Board of Directors

Silent Witness

- Member, Board of Directors

City of Phoenix 301 Committee (Block Watch Oversight, created by Phoenix City Council) (1993 - 1996)

Honors and Awards

- [AV Preeminent® Peer Review Rated™](#)
- Listed, *The Best Lawyers in America*® in the categories of Administrative/Regulatory Law, Commercial Litigation, Corporate Law, Litigation - Banking and Finance, Litigation - Construction, Litigation - Labor and Employment, and Litigation - Real Estate (2006 - 2021)
- Listed, [AzBusiness Leaders](#) in the category of Business & Commercial Litigation (2021)
- Listed, "Top 100 Lawyers for 2020," *AZ Big Media* (2020)
- Listed, *Southwest Super Lawyers*® in the categories of General Litigation, Construction Litigation: Business, and Business Litigation (2013 - 2016)
- AB Top Lawyer, Commercial Litigation, *AzBusiness Magazine* (2009 - 2010)