



Seth Alan Schwartz

Partner
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Cincinnati, OH
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What do clients appreciate most about Seth's counsel? His no-nonsense, direct approach. For multiple years, Seth has been named a Rising Star by *Law and Politics Media*. His practice focuses on civil litigation, including commercial, close-corporation, real estate, and breach of contract disputes. He has extensive experience defending his clients in federal and state courts in Ohio and throughout the United States, including in state and federal courts in Massachusetts, New York Federal Bankruptcy Courts, the Federal Southern District Court situated in New York, and Illinois State Court situated in Cook County (Chicago).

With more than 15 years of litigation experience, Seth works closely with clients to meet their needs and has the foresight to advise clients in a clear and concise manner as to their best course of action. As an adjunct assistant professor at the University of Cincinnati, he teaches Conflict and Resolution, a course directed towards negotiating resolutions to disputes. While every litigation situation is different, Seth typically uses the methods he teaches to try to seek early, cost-effective, negotiated solutions, while recognizing that some matters require court intervention to resolve. Regardless of the course of litigation, he prioritizes working closely with clients to seek all opportunities to maximize his clients' business and litigation goals.

Seth's represents fortune 500 companies in depositions and litigations related to alleged fraud, real estate disputes and securities fraud. He has successfully handled countless commercial real estate cases involving issues of alleged constructive eviction, specific performance and damages.

He routinely mediates cases, utilizing both judicial and voluntary mediation forums, and was invited by the National Business Institute to lecture on mediation, settlement strategies, and negotiating tactics.

Seth also lectured to the Ohio State Bar Association regarding tortious interference claims in business legislation context.

Services

- Litigation
- Beer, Wine & Spirits Industry

Education

- Northwestern University School of Law (J.D., *cum laude*, 2001)
 - Order of the Coif
- Tufts University (B.A., 1997)

Bar Admissions

- Ohio
- Massachusetts

Court Admissions

- U.S. Court of Appeals for the First Circuit
- U.S. District Court for the Southern District of Ohio
- U.S. District Court for the District of Massachusetts

Affiliations/Memberships

- Cincinnati Bar Association
- Massachusetts Bar Association
- Cincinnati AJC, Executive Board (2009 - present)
- Lazarus Awards, High School Student's Community Involvement chair (2009 - 2012)
- Starfire Host Committee (2007 - 2008)
- Emery Theater, Requiem Project board member (2011 - 2016)
- C-Change, Class 7

Distinctions

- Ohio *Rising Stars*®
- *Best Lawyers*® for Commercial Litigation

Alcoholic Beverages

Seth understands crafting beer, wine, and spirits is about more than brewing and distilling. Clients creating innovative lagers, IPAs, stouts, or other beverages sometimes encounter disputes with suppliers, distributors, contractors, and landlords. Fermenting significant craft beer experience with seasoned litigation skill, Seth brings heady credentials to alcoholic beverage disputes.

Beer, wine, and spirit suppliers, distributors, and brewers seek Seth's counsel on issues including manufacturing, distribution, and in-house sales. He also advises clients on contract negotiations, employment advice, intellectual property work, manufacturing equipment contracts, local political lobbying, and general corporate matters.

Experience

Dinsmore Meets All Legal Needs for Significant Craft Brewer's Business

Since 2012, Rivertown has relied exclusively on Dinsmore's counsel to ensure their craft beer taps flow for years to come. Running a growing brewing company means constantly dealing with new questions about whether a beer name is available to disputes over what name a beer company may use in commerce. Dinsmore provides all legal counsel supporting Rivertown Brewing Company's manufacture, distribution, and in-house sales, including distribution contract negotiations, manufacturing equipment contracts, local political lobbying, review of services contracts, employment advice, trademark and intellectual property work, litigation concerning distribution contracts, intellectual property litigation, and general corporate matters.

Represented Client Purchasing a West Coast Beer, Wine and Spirits Distributor

We represented the purchaser during its formation of an investment vehicle and subsequent \$38 million acquisition of an West Coast-based beer, wine and spirits distributor. We aided our client by negotiating and drafting the asset purchase agreement and ancillary transaction documents, negotiating consents and releases with multiple suppliers, and drafting and negotiating purchaser entity formational documents. We also coordinated due diligence efforts on behalf of our client.

Assisted Clients with a \$20 Million Asset Sale

We represented the sellers in an asset sale for two Ohio-based beer, wine and spirit distributors for a combined purchase price of more than \$20 million. Our role included drafting and negotiating the asset purchase agreements and negotiating and facilitating various distribution right spin-off purchases to non-primary purchasers.

Aided a Start-Up Brewery with Securing Funding

We represented a Cincinnati start-up craft brewery in Regulation D securities offering to fund its bottling and canning operation. We drafted the necessary documents for our client, including the offering memorandum, subscription agreements and unit purchase agreements, which included industry-specific representations such as those related to tied house laws. We also completed the necessary SEC and state securities filings.

Represented Client in \$26.5 million Asset Sale

We represented a southern wine, beer and spirits distributor in its \$26.5 million asset sale to an industry competitor. Our role included negotiating and revising primary transaction documents, drafting ancillary transaction documents and facilitating due diligence inquiries.

Represented the Supplier of a New Spirit-Based Product

When a supplier from New Zealand wanted to introduce a spirits-based product into United States territories, we took the lead on drafting and negotiating an importation and contract-distilling agreement, which provided for eventual state-side production, upon the achievement of specified sales milestones.

Represented Distributor in the Divestiture of its Portfolio

We represented a beer, wine and spirits distributor in the divestiture of its distribution rights portfolio to numerous purchases.

Represented Our Client, a Brewing Company, During an Appeal to the Ohio Board of Tax Appeals

Our client, a brewing company, received an A-1 liquor permit in December 2010 that entitled them to a credit against taxes levied on manufactured beer and malt beverages, provided the brewing company met certain requirements. The brewing company requested Ohio's tax commissioner apply the credit to taxes paid on manufactured beer and malt beverages during 2010, but the request was denied. We represented our client when they appealed the decision to the Ohio Board of Tax Appeals.

Representation of Multiple Brewing Companies

Seth Schwartz represents multiple brewery clients, including Rivertown Brewing Company, in multiple areas, including distribution contract negotiations, litigation concerning distribution contracts, intellectual property litigations, tax litigation and general corporate matters.

Contract Litigation

Despite often the best intentions, business partners sometimes fail to live up to the spirit or terms of a contract. Whether it's the result of changing circumstances, business environments, mistakes, or greed, Seth is brought in to enforce his client's contractual rights.

Seth's experience in contract litigation and financial institutions means he's well versed in all matters of contract construction, negotiation, and dispute resolution. Regardless of how clear or complicated a contract seems at first glance, Seth assesses all possible interpretations in conjunction with applicable law, and uses those interpretations and arguments for maximum litigation or negotiation advantage.

Experience

Represent Client in Contract Disputes

Seth Schwartz represents EGI in disputes concerning EGI's contract disputes. For example, Mr. Schwartz represented EGI on two occasions when third party companies failed to deliver services related to equipment specifically designed to operate on EGI's manufacturing process lines. Mr. Schwartz also represented EGI when a contractor failed to deliver on services related to reconstruction of certain real estate assets as promised.

Represent Clients in Multiple Matters Including Regulatory Litigation

Chuck Hertlein and Seth Schwartz have represented Vantage Financial Advisers, a financial advisory firm, in multiple matters including regulatory litigation and claims brought by clients related to investment losses outside of Vantage's control.

Representation of a Minority Shareholder when Denied Ownership Claim

Seth Schwartz represented a minority shareholder when the majority shareholder of a used printing press business denied the minority shareholder's ownership claim, contrary to the parties' agreement.

Our client only agreed to leave his former employer on the condition he would be a shareholder in the new enterprise. Upon reaching that agreement, our client left his employer and began working full time at the used printing press company. During the first year of his work at the new company, our client was generally treated as a partner. Our client was held responsible for expenditures of the company, including taxes, and was the only person responsible for writing checks on the behalf of the LLC. He also personally signed a lease for heavy equipment to be used by the business. In addition, the founder introduced our client as a partner to others.

After the company was very successful, the majority partner changed the compensation structure so all "partners" were making equal pay. Considering our client devoted his full-time energies to the company while other "partners" were involved with other ventures, our client disputed the new payment structure. When the dispute arose, the majority partner denied our client's ownership of the business.

The matter proceeded to a jury trial, during which it was settled to our client's satisfaction.

Represent Client in Multiple Disputes with Manufacturers

Seth Schwartz represents Ernie Green Industries (EGI) and its subsidiary Florida Production Engineering, in multiple disputes with second tier automotive parts manufacturers concerning quality, timeliness of delivery and purchase price. Mr. Schwartz has also represented EGI in real estate disputes concerning the scope of easements.

Represent Client in Disputes Concerning Asset Purchase Agreements

Seth Schwartz represents EGI in disputes concerning EGI's asset purchase agreements. In particular, EGI worked with Dinsmore when the assets it purchased from a competitor were not as represented in the asset purchase agreement, reaching a favorable settlement.

Represented Minority Shareholders in Dissenters' Rights Derivative Action

In this matter, minority shareholders retained Seth Schwartz to represent them in a dissenter's rights derivative action. Prior to a large transaction, the company instituted a reverse 149:1 stock split, which caused the elimination of the ownership of certain minority shareholders. These minority shareholders dissented to the transaction and engaged in limited derivative litigation with the company. This matter was settled to our client's satisfaction.

Representation of a Client Involved in a \$15 Million Dollar Family Dispute

We represent a family member in a three-way dispute involving trust assets, business assets, and substantial real estate holdings worth \$15 million.

Corporate Control Litigation

When handling disagreements between business owners, their partners, shareholders, or other parties, Seth believes in solving complex problems, either through private agreement, mediation, or litigation so his clients prosper long beyond the immediate dispute.

Seth's clients include minority and majority corporate owners and business partners locked into disputes with fellow stakeholders. Many times, co-business owners disagree about their corporation's direction, are upset about the value of corporate assets, or disagree about other corporate governance issues. Seth reviews the details of his clients' contracts and other arrangements, and identifies the best ways to find lasting solutions or separate the parties. Rarely does one-size-fit-all when resolving corporate disagreements, and Seth makes sure to consider the potential long- and short-term outcomes for clients before illuminating the optimal path towards long-term business success.

Experience

Defense of company in partnership dispute

Seth Schwartz represented our client, a contractor materials company (CMC), a fabricator of stainless steel rebar, in a significant case in New York Courts, ultimately reaching a favorable settlement focused on preserving our client's business opportunities.

Our client had performed fabrication work for a former affiliate and, four years later, a dispute arose between the parties as to whether they entered into a partnership and the scope of the obligations owed between the parties contracted with a former affiliate (plaintiff) of CMC then contracted with another company while continuing to do business with both contractors. The former affiliate company brought a suit against our client in the Supreme Court of the State of New York. The plaintiff alleged, among other things, breach of contract, an action in accounting, conversion, breach of fiduciary duty, breach of the covenant of good faith and fair dealing, tortious interference with prospective business relations, fraud, unjust enrichment, promissory estoppel, misappropriation, negligent misrepresentation, and economic duress.

This matter was removed from the Supreme Court of the State of New York to the U.S. District Court for the Southern District of New York. Our client then brought counterclaims for breach of contract and breach of fiduciary duty. In addition, our client added a Third Party compliant against the plaintiff's parent company in Denmark.

After substantial litigation, the case was ultimately settled on a favorable basis to our client, CMC.

Defend majority owner against fraud, breach of contract and conversion

Seth Schwartz and Rich Porotsky represented the majority owner of seven LLCs, which owned approximately \$70 million in real estate. The minority shareholders brought claims for fraud, breach of contract and conversion against the majority shareholder. In addition, the minority shareholders brought a preliminary injunction against the majority shareholder, which requested the majority shareholder be removed as manager of the companies. The case proceeded to a two-day preliminary injunction hearing where our client, the majority shareholder, prevailed.

Representation of a Minority Shareholder when Denied Ownership Claim

Seth Schwartz represented a minority shareholder when the majority shareholder of a used printing press business denied the minority shareholder's ownership claim, contrary to the parties' agreement.

Our client only agreed to leave his former employer on the condition he would be a shareholder in the new enterprise. Upon reaching that agreement, our client left his employer and began working full time at the used printing press company. During the first year of his work at the new company, our client was generally treated as a partner. Our client was held responsible for expenditures of the company, including taxes, and was the only person responsible for writing checks on the behalf of the LLC. He also personally signed a lease for heavy equipment to be used by the business. In addition, the founder introduced our client as a partner to others.

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The matter proceeded to a jury trial, during which it was settled to our client's satisfaction.

Represent Minority Shareholders in Close Corporation Dispute

We represented our clients, alcoholic beverage shareholders, in a close corporation dispute involving claims that company management breached their fiduciary duties and violated certain common-law corporate doctrines. The minority shareholders initiated action to remove management due to these alleged contractual violations. Our clients received a favorable resolution after taking advantage of pre-litigation mediation options.

Representation of a Client Involved in a \$15 Million Dollar Family Dispute

We represent a family member in a three-way dispute involving trust assets, business assets, and substantial real estate holdings worth \$15 million.

Represented a Supplier in Banking Litigation

Our client, a granite countertop provider, fell victim to wire transfer fraud. Our client received an email, purportedly from a supplier, instructing it to wire money to a fraudulent account believed to be the supplier's. The countertop provider's bank received an alert, warning them the money was not going to an account bearing our client's supplier's name as intended, but the bank ultimately completed the transfer and the funds were lost. We represented our client in pre-litigation negotiation related to the stolen wire transfer funds. The case was ultimately settled.

Real Estate Litigation

Real estate deals are difficult to navigate when everything goes well, let alone when there's a problem. When clients run into defective construction, title, financing, or foreclosure issues or setbacks, Seth is often called to solve the problem, and restore clear title.

Clients, including home builders and developers, depend on Seth's counsel when dealing with liens, supply issues, contracting issues, and questions about financing. He advises clients who are drafting leases, purchase

agreements, and construction agreements. Seth also helps resolve disputes with contractors, tenants, sub-contractors, and financing companies.

Experience

Representation of a large commercial shopping center in appeal

Seth Schwartz served as lead counsel for a dispute relating to contractual payments and title insurance for a large commercial shopping center in Toledo, Ohio. Our client appealed a decision of the Federal District Court. This dispute involved contractual interpretation issues, extensive discovery, extensive motion practice concerning the interpretation of the overlapping land agreements and applicability of the title insurance policy. The parties reached an agreement to the satisfaction of our client.

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Representation of Large Private Property Management Company

Seth Schwartz represents a large private property management company in a variety of matters including drafting contracts, litigation, alleged construction defect cases and alleged tort cases.

Provide Ongoing Counsel for a Residential Home Builder

We represent a residential home builder and developer, providing real estate, construction finance, and litigation counsel on a variety of projects. Our work includes handling liens, supplier issues, contracting issues, and financing problems.

Representation of a National Mortgage Servicer

We handle roughly 500 Ohio-based contested foreclosure cases for a national mortgage servicer.

Provide Ongoing Counsel for a Nursing Home Developer on a Variety of Issues

We provide ongoing counsel for a nursing home developer regarding construction issues, construction problems, Medicare reimbursement, and other essential matters.

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Representation of Mid-West Financial Institutions

Seth Schwartz represents multiple, significant mid-west financial institutions. These representations include addressing Truth in Lending Act matters, replevin actions, collection actions, foreclosure actions, contested foreclosure actions, internal and external fraud matters, UCC matters concerning check deposit issues, and financial institution contracts.

Representation of Local Banks

Seth represents multiple mid-sized banks in litigations with vendors, former employees, and in relation to commercial loans and foreclosures.

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Our client, a granite countertop provider, fell victim to wire transfer fraud. Our client received an email, purportedly from a supplier, instructing it to wire money to a fraudulent account believed to be the supplier's. The countertop provider's bank received an alert, warning them the money was not going to an account bearing our client's supplier's name as intended, but the bank ultimately completed the transfer and the funds were lost. We represented our client in pre-litigation negotiation related to the stolen wire transfer funds. The case was ultimately settled.

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