



Steven D. Wheelless

Steptoe & Johnson LLP partner Steve Wheelless practices nationally, representing clients large and small in numerous industries and locations. Prior to joining the firm, Mr. Wheelless served as a United States Air Force F-16 Instructor Pilot and a Diplomatic Exchange Officer to the Royal Danish Air Force.

Primary Areas of Practice

Employment Litigation

Mr. Wheelless serves as lead trial and appellate counsel for employers defending against wage-and-hour putative class and collective actions. For example, he led the litigation and appellate team that prevailed on all class and individual claims in *Osuna v. Wal-Mart Stores, Inc.*, 214 Ariz. 286 (Ct. App. 2007) (affirming denial of class certification and dismissing wage-and-hour class claims by putative class of 50,000 current and former employees). He also defends clients facing complex EEO and EEOC Commission-initiated Charges and Complaints, including for example claims of systemic and disparate-impact discrimination as in *Tempesta v. Motorola, Inc.*, 21 Fed. Appx. 700 (9th Cir. 2001) (affirming summary judgment on race claims challenging the employer's system-wide RIF policy).

Labor

Mr. Wheelless represents clients nationwide with:

- NLRB representation hearings and unfair labor practice proceedings;
- Union organizing campaigns;
- Collective bargaining, contract interpretation, and arbitrations.

Clients have selected Mr. Wheelless to serve as lead trial counsel in connection with over 650 employer and union-initiated unfair labor practice allegations, such as:

- *National Basketball Association*, 2-CA-40518 (2011) (on-going);
- *Cemex, Inc.*, 28-CA-22165, et al. (NLRB Div. of Judges 2010) (all allegations dismissed mid-trial per ALJ-approved settlement);
- *Flagstaff Medical Center*, 2009 WL 1405151 (NLRB Div. of Judges 2009) (rejecting joint employer, subcontracting, and all discrimination claims filed during multi-year corporate campaign);

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Areas of Practice

Labor/Management
Relations

Employment Advice &
Litigation

Litigation

Education

The George Washington
University National Law
Center, J.D., with highest
honors, 1994

Golden Gate University,
M.S., Information Systems,
1986

Roosevelt University, B.S.,
Computer Science, with
honors, 1983

United States Air Force
Academy, B.S.,
Astronautical Engineering,
with honors, 1979

Bar & Court Admissions Arizona

US Court of Appeals,
District of Columbia

US Court of Appeals,
Ninth Circuit

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- *Wal-Mart Stores, Inc.*, 351 NLRB No. 103 (2008), and *Wal-Mart Stores, Inc.*, 339 NLRB No. 153 (2003) (establishing an employer's right to lawfully place visiting, high-ranking managers in a facility experiencing organizing without creating an inherent and unlawful solicitation of grievances);
- *UFCW, Int'l. v. NLRB*, 519 F.3d 490 (D.C. Cir. 2008) (affirming that petitioned-for unit was inappropriate after unilateral changes in employee job duties);
- *Sam's Club*, 349 NLRB 1007 (2007) (upholding disciplinary decisions, dress code rules, and campaign messages).

National and multi-national clients also call on Mr. Wheelless for advice and counsel on merger and acquisition issues involving organized work forces as well as labor-related antitrust issues as they affect key offensive and defensive business decisions. Mr. Wheelless also successfully litigated labor-related antitrust and RICO issues while representing a group of bargaining unit members protesting "sweetheart deals" given by their employer in violation of federal labor law.

Commercial

Mr. Wheelless also represents businesses in state and federal court at the trial and appellate level in complex commercial litigation involving contract, partnership, and financial disputes. See, e.g., *State ex. rel. Goddard v. Western Union Financial Serv.*, 216 Ariz. 361 (Ct. App. 2007).

Noteworthy

- *Developing Labor Law*, Associate Editor, 2011
- *Southwest Super Lawyers*, Labor & Employment Law, 2007-2011
- *Ranking Arizona*, Top Lawyers, 2010
- *AZBusiness Top Lawyers*, Labor & Employment, 2009
- Martindale-Hubbell "Preeminent AV" Peer Review Rating (5.0/5)

Professional Affiliations

- Labor Lawyers Advisory Council to National CUE Association
- Developing Labor Law Committee, American Bar Association
- National Financial Institutions Employment Lawyers Committee

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Recent Publications and Speaking Engagements

- EZ Energy USA, Inc.: *Petroleum Distributors' Share Group: Addressing ADA III Accessibility Issues* (10/26/11);
- Edison Mission Energy: *Seven Key Skills to Create and Maintain Employee Loyalty* (10/17/11);
- CUE Fall Conference: *Expedited Elections in Micro-Units: Nightmare or Just A Bad Dream?* (10/11/11);
- Arizona Chamber of Commerce Labor Law Presentation: *New Rules, New Regulations, New Mindset: What's Going on at the DOL, EEOC, OFCCP and NLRB?* (10/7/11);
- SIGMA HR Convention: *Telecommuting and the Modern Workforce* (10/5/11);
- Food Processing Industry HR Share Group Meeting: *Social Media and the American Workplace: Trends, Tactics, and Teachable Moments* (9/12/11);
- Cement Employers Association Annual Meeting: *Federal Labor & Employment Regulators Changing the Rules* (9/20/11);
- Annual KIA Dealers Convention: *Labor Law In Transition: Planning for the Spotlight* (9/21/2011);
- Associated General Contractors, Strategic Planning Conference: *A New Day at the NLRB: What Expedited Elections Mean* (7/28/11);
- National Webinar On *The SEC's Whistleblower Bounty Provisions: New Rules, New Mindset* (7/27/11);
- Steptoe Annual Labor Relations Conference: *Managing a Partially Unionized Workforce: Opportunities and Challenges* (5/20/11);
- Society for Independent Gasoline Marketers of America: *Recent Employment Law Developments at the USSC* (4/5/11);
- Arizona Chamber of Commerce: *Labor Legislation Updates (SB 1363 and 1365)* (2/9/11);
- American Bar Association Midwinter Convention: *How To Take A ULP Case To Trial* (11/6/10);
- American Bar Association Developing Labor Law Committee: *The Ethics of Social Media in Labor Relations* (3/2/10).

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Select Seminars & Events

Whistleblowers and the FCPA – Minimizing Internal Risk, July 27, 2011, (*A Steptoe-Sponsored Event*)

Eighth Annual Labor Relations Conference, May 19, 2011, (*A Steptoe-Sponsored Event*)

Seventh Annual Labor Relations Conference, May 13, 2010, (*A Steptoe-Sponsored Event*)

Labor Relations College For HR Professionals In A Labor-Friendly World, (*A Steptoe-Sponsored Event*)

Employment Law Seminar, December 8, 2009, (*A Steptoe-Sponsored Event*)

Sixth Annual Labor Relations Conference, April 24, 2009, (*A Steptoe-Sponsored Event*)

Selected Publications

There's No Excuse For Age Bias
September 15, 2011, *Arizona Business Gazette*

Twenty-Five Years of Development in the Law Under the National Labor Relations Act
January 1, 2011, *American Bar Association Journal of Labor & Employment Law*

Legal Ease: Plain Talk on Legal Topics - Get Organized
October 2009, *Leader's Edge*