

Sean R. Gallagher

SHAREHOLDER

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Sean Gallagher has spent more than 30 years fighting for his clients in boardrooms and courtrooms across the country, and is one of only a handful of lawyers in Colorado history to have argued a case in the Supreme Court of the United States and prevailed with a unanimous decision.

Sean has been elected by his peers as a Fellow in the College of Labor and Employment Lawyers for his "sustained outstanding performance in the profession." The *Chambers USA* guide has recognized Sean's "extensive work in bet-the-company cases, matters involving substantial public policy and constitutional issues, and employment litigation," and quoted one client saying "Sean is a life-saver during a difficult dispute" and that "he would be my first choice if the situation arose again". *Colorado Super Lawyers* has recognized Sean as one of the *Top 100 lawyers in Colorado*.

His representative commercial litigation experience includes cases involving regulatory disputes, claims for breach of contract, common law fraud, securities fraud, defamation, unfair competition, consumer protection violations, theft of intellectual property, whistleblowing, ERISA, Medicare payer rules, state and local tax matters and corporate governance disputes.

Many of Sean's cases involve disputes in which the client's business interests collide with government regulations and policies, often in a very public way. Sean has represented companies, trade associations, political leaders and public servants with a broad spectrum of public policy, constitutional, and election matters, including several First Amendment cases of national significance. He has also represented clients in high-profile regulatory disputes, including representing a gas marketing company in a state court action against the Colorado Public Utilities Commission and Xcel Energy, challenging a nearly \$2.6 million penalty.

Sean has served as national counsel for three presidential campaigns, has twice been appointed a Special Assistant Attorney General by the State of Colorado, and has been retained on multiple occasions by the U.S. Department of Justice to represent federal officials in civil litigation. He successfully represented two U.S. Secret Service agents in the Supreme Court of the United States in *Reichle v. Howards*, 566 U.S. ____ (2012) where he obtained a unanimous decision on behalf of his clients in a case involving the

Capabilities

- Appellate
- Commercial Litigation
- Employment Advice & Investigations
- Employment Litigation, Arbitration & Dispute Resolution
- False Claims Act Defense
- Labor & Employment
- Labor & Employment - Health Care
- Litigation
- Public Policy
- Restrictive Covenants & Trade Secrets Litigation
- Post Chevron Educational Resources & Updates
- Energy
- Data Center & Infrastructure

scope of civil liability of Secret Service agents protecting the President and Vice President.

As a member of the firm's Labor and Employment practice, Sean assists employers in implementing proactive employment policies that help minimize the risk of litigation. When necessary, however, he represents management in all aspects of employment litigation, including cases involving covenants not to compete, wage and hour violations, breach of fiduciary duty and discrimination.

As an adjunct to his litigation practice, Sean is nationally recognized for his experience in the field of electronic discovery. He is a member of The Sedona Conference's Working Group on Best Practices for Electronic Document Retention and Production and helped lead a team that drafted the conference's commentary on Proportionality in the e-Discovery Process. A sought-after speaker, Sean has lectured at more than 150 programs across the country on litigation, ethics, and electronic discovery matters. He has served as an adjunct professor at the University of Colorado Law School, where he taught Electronic Discovery.

Education

- University of Denver Sturm College of Law (J.D., 1987)
- Baylor University (B.A., 1984)

Bar Admissions

- Colorado, 1987

Court Admissions

- United States Supreme Court
- U.S. Court of Appeals, Tenth Circuit
- U.S. Court of Appeals, Ninth Circuit

Memberships

- Fellow, College of Labor and Employment Lawyers
- Member, Colorado Supreme Court Pattern Civil Jury Instructions Committee
- Chair, United States District Court Chief Judge's Select Committee on Judicial Working Group
- Managing Editor, The Practitioner's Guide to Colorado Employment Law, published annually by the Colorado Bar Association
- Committee chairman, American Bar Association, Employment Rights and Responsibilities Committee
- Litigation track coordinator, American Bar Association Annual Labor and Employment Conference
- Member, Federalist Society for Law and Public Policy Studies
- Member, Republican National Lawyers Association
- Member of Electronic Discovery Working Group, the Sedona Conference
- Former member, Colorado Supreme Court Nominating Committee (2000-2006)
- Former board member, Rocky Mountain Junior Achievement
- Former board member, treasurer and chairman, Rocky Mountain Human Services and Denver Options
- Former board member, Faculty of Federal Advocates
- Founding member, Denver Active 20-30
- Former Adjunct Law Professor, Electronic Discovery, University of Colorado Law School
- Former Adjunct Law Professor, Lawyering Process, University of Denver Sturm

Recognition

- Named to *5280 Magazine's* "Denver's Top Lawyers" list for Litigation Law, 2023
- Successful oral argument and unanimous decision in the Supreme Court of the United States in *Reichle v. Howards*
- Named "Litigation Star" by *Benchmark Litigation*, 2019-2026
- College of Labor and Employment Lawyers, Fellow
- Selected for inclusion in *Best Lawyers in America*[®] for:
 - Commercial Litigation, 2013-2026
 - Litigation - Labor and Employment, 2011-2026
- Selected for inclusion in *Colorado Super Lawyers*, 2006-2007, 2009-2014
- Ranked in the *Top 100 Colorado Super Lawyers*, 2013, 2015-2017
- Selected by the *Denver Business Journal* as one of top 10 newsmakers in the legal field for their 2012 Power Book
- Ranked in *Chambers USA: America's Leading Lawyers for Business*, Band 4, Litigation: General Commercial, Colorado, 2018-2025
- Ranked in *Chambers USA: America's Leading Lawyers for Business*, 2004-2007
- Managing Editor, *The Practitioner's Guide To Colorado Employment Law*, 1999-present
- Selected as one of the top 100 Irish Lawyers in America by the Irish Legal 100
- Appointed by Chief Justice of Colorado to Civil Pattern Jury Instruction Committee, 2013-present
- Former member, Colorado Supreme Court Nominating Commission, 2000-2006

Matters

- Successfully represented two U.S. Secret Service agents in the Supreme Court of the United States in a case involving the scope of civil liability of Secret Service agents protecting the U.S. President and Vice-President.
- Successfully represented numerous employers in lawsuits in state and federal court.
- Successfully represented two U.S. Secret Service agents in the Supreme Court of the United States in a case involving the scope of civil liability of Secret Service agents protecting the U.S. President and Vice-President.
- Successfully represented a member of the President's advance team in a case involving alleged viewpoint discrimination by the White House.
- Obtained summary judgment on behalf of dozens of clients in cases alleging race, sex and disability discrimination.
- Successfully represented the largest private operator of health care facilities in the world in a challenge to a \$1.4 billion acquisition of seven hospitals in Colorado.
- Successfully represented a Fortune 100 corporation in litigation arising out of the failed implementation of an Enterprise Resource Planning software package.
- Represented an agency of the state of Colorado in litigation arising out of a joint venture to develop loan portfolio management software.
- Represented member of Rock 'n Roll Hall of Fame in multiple matters, including defense of defamation claim.
- Represented the Colorado governor in the state's congressional redistricting litigation following the 2000 decennial census.
- Successfully represented a U.S. Congressman in a recount following the closest congressional race in the 2002 general election.

- Served as Colorado general counsel and national recount counsel for Republican presidential candidates in the last three presidential campaigns.
- Successfully defended federal government contractor in state jury trial alleging wrongful termination and retaliation.
- Successfully defended federal government contractor in federal jury trial alleging violation of Title VII and retaliation.
- Successfully defended employer in federal jury trial alleging violations of the Americans with Disabilities Act.
- Successfully defended employer in federal jury trial alleging violations of ERISA and retaliation.
- Successfully defended Immigrations and Customs Enforcement agent in federal civil jury trial alleging violation of Fourth Amendment.
- *National Labor Relations Board v. Noel Canning*, ___ U.S. ___ (2014). Submitted amicus brief on behalf of public policy research organization concerning original understanding of the Constitution's Recess Appointments Clause. Arguments quoted in concurring opinion by Justice Antonin Scalia.
- *Wood v. Moss*, ___ U.S. ___ (2014). Submitted amicus brief on behalf of U.S. Conference of Mayors, National League of Cities, National Governors Association and others in First Amendment viewpoint discrimination case.
- *Kitchen v. Herbert*, ___ F.3d ___ (10th Cir. 2014). Submitted amicus brief on behalf of Western Republicans who support same sex marriage in first federal circuit court decision to hold state same sex marriage bans violate U.S. Constitution.
- *DeBoer v. Snyder*, *Bourke v. Beshear*, *Tanco v. Haslam*, *Henry v. Himes*. Submitted amicus brief on behalf of Republicans who support same sex marriages in four cases pending in U.S. Court of Appeals for the Sixth Circuit.