



Stephen B. Sutton

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KANSAS CITY

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PRACTICE AREAS

Community Banking
Financial Services
Asset Sales & Acquisitions
Bankruptcy Litigation
Debtor Representation
Receiverships
Secured Creditor
Representation
Unsecured Creditors &
Committee Representation
Workout & Restructuring
Litigation
Construction Law

COURT MEMBERSHIPS

- Missouri
- California
- U.S. District Court for the District
of Kansas

Stephen Sutton counsels the Kansas City-based firm, U.S. Engineering Company, which provides mechanical, construction, engineering and construction management services on large industrial building developments. He represented General Motors Corporation on all legal aspects of its construction of the \$1 billion Fairfax automotive assembly plant in Kansas City. He defended U.S. Engineering in a \$500 million alleged construction defect lawsuit that resulted in summary judgment in his client's favor. He successfully represented both Morrison-Knudsen Corporation and Harmon Industries in bid protest litigation challenging their engineering and construction capabilities in connection with the MetroLink light rail system in St. Louis, Missouri. He has represented Fireman's Fund Insurance Company on multiple construction projects involving total surety bond claims exceeding \$15 million in more than eight different states.

Stephen is also counsel for Ally Financial f/k/a General Motors Acceptance Corporation. He has represented GMAC in cases involving dealership floor plan balances in excess of \$25 million. He successfully defended GMAC in a federal court lender liability lawsuit filed against GMAC; pursued replevin actions to recover motor vehicles subject to GMAC's floor plan in state courts in both Missouri and Kansas; and successfully defended GMAC against post-bankruptcy recovery actions by bankruptcy trustees.

He is counsel to Dairy Farmers of America, Inc. nationally on bankruptcy and creditors' rights cases, having appeared in over 100 cases in more than a dozen states. He also recovered in excess of \$7 million for Dairy Farmers of America in the bankruptcy proceeding of



- U.S. District Court for the Eastern District of Missouri
- U.S. District Court for the Western District of Missouri
- U.S. Court of Appeals for the Federal Circuit
- U.S. Court of Appeals for the Seventh Circuit
- U.S. Court of Appeals for the Eighth Circuit
- U.S. Court of Appeals for the Tenth Circuit
- U.S. Claims Court
- U.S. Supreme Court

EDUCATION

Washington and Lee University
School of Law, J.D., 1973

University of Kansas, B.A., 1970

CLERKSHIP(s)

Clerk to Hon. David J. Dixon,
Chief Judge of the Missouri
Court of Appeals, Western
District

one of its largest bottling plant customers in Illinois and defended it in multiple cases from Florida to Idaho.

Stephen's representative clients include U.S. Engineering Company, Dairy Farmers of America, Inc., Beachner Bros., Inc., Beachner Grain, Ally Financial and Woodley Building Maintenance.

Some of his representative experience includes:

- Successfully defended large dairy cooperative in attempt by Chapter 11 Trustee in Arizona to sell to third parties millions of dollars of client's capital, potentially to be allocated to debtor in bankruptcy contrary to the client's policies and programs
- Successfully defended agricultural food processor in a New Mexico lawsuit brought by a secured creditor to enforce a security interest in the client's capital by preventing client from offsetting six figure amounts due and owing from debtor to client pursuant to express agreements between the client and debtor
- Defended large dairy cooperative in multimillion-dollar preference complaint brought by Chapter 7 Trustee in Delaware and later settled
- Defended agricultural food processor from a third party creditor's attempt to recover the client's capital to satisfy a debt owed by potential holder of capital, contrary the client's capital policies and programs. Successfully enforced client's rights preserving in excess of \$1 million dollars of client's capital
- Defended large dairy cooperative against six-figure preference lawsuit in Wisconsin under state court receivership laws. The matter was resolved after early mediation for less than 25 percent of receiver's original demand using Wisconsin receivership statute defenses

Construction Litigation:

- Defended mechanical subcontractor from multimillion-dollar lower tier subcontractor delay/interference claim on West Virginia federal prison construction project and correspondingly asserted claims for indemnification against prime contractor that were all resolved successfully in arbitration with contribution by prime contractor
- Successfully defended subcontractor client from environmental damage claim in Colorado by prime contractor and owner on highway project, pursued claims against lower tier subcontractor

and settled without formal litigation for significantly less than the original demand through quick and efficient use of mediation

- Guided subcontractor client through multiple issues caused by lower tier subcontractors' default and pursued rights and remedies against the lower tier subcontractor surety, all resulting in no work stoppage on \$1 billion dollar federal government contract in Manhattan, Kansas and recovered all funds due to client
- Pursued six-figure claim for mechanical subcontractor against lower tier subcontractors after default on office building construction subcontract, enforced client's arbitration demands and defeated surety's attempt to move arbitration issues into federal court litigation in Washington, D. C.
- Recovered several hundred thousand additional dollars for mechanical subcontractor client on Washington D.C. museum project from the prime contractor for delays and interference by prime. The matter was resolved without initiating litigation by enforcing our client's mediation rights in subcontract after project completion

Commercial Litigation:

- Defending majority owners in break-up of \$100 million farm and ranch land partnership and corporation in Kansas state court trial involving interpretation of disputed verbal agreements, corporate by-laws, complex corporate tax-free reorganization under Section 355 of tax code, and testimony from multiple valuation and tax expert witnesses

Presentations

- Presenter, *Contractor's Default - The Surety's Right to Take the Materials*, The Construction Lawyer, ABA Forum on the Construction Industry
- Presenter, *Liability of Architects and Engineers Under Missouri Law*, Cambridge Institute
- Presenter, *Commercial Law for the Creditor and Debtor*, Rights of Secured Creditors in Bankruptcy in Missouri, National Business Institute, Inc., The Kansas City Metropolitan Bar Association

News Releases

- Stephen Sutton Named to 2023 POWER List for Construction Law December 15, 2023

Professional Affiliations

- American Bar Association, Fidelity & Surety Law Committee; Forum on the Construction Industry
- Kansas City Metropolitan Bar Association, Commercial Law Committee
- The Missouri Bar, Construction Law Committee

Honors

- *Missouri Lawyers Weekly*, The POWER List, Construction Law, 2023
- Martindale-Hubbell® "AV" Rating