SpencerFane®

Richard H. (Rick) Herold

Partner

Contact

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Overview

Rick Herold has more than 30 years of experience as a litigator and trial attorney, excelling in efficiently resolving complex commercial disputes across a range of industries including financial services, health care, real estate, manufacturing, mining, oil and gas, and securities. He is known for his creative, constructive, and practical approach to problem-solving for banks, shareholders, employers and property owners, often resulting in expedited proceedings to appoint a receiver, enjoin misconduct, address real property or shareholder rights, or recover confidential information or trade secrets removed from the workplace.

Rick prioritizes outstanding service and availability to his clients. His work regularly results in early settlements, targeted summary judgments avoiding lengthy trials, and, when necessary, successful jury trials. Representing both plaintiffs and defendants equally, he regularly recovers counsel fees and costs for his clients.

Education

- The George Washington University Law School, 1990 (J.D.)
- Emory University, 1986 (B.A.)

Bar Admissions

- Arizona

Court Admissions

- Arizona Supreme Court
- U.S. District Court for the District of Arizona
- U.S. Court of Appeals for the Ninth Circuit

Community Involvement

- Southwest Behavioral & Health Services
  - Chair, Board of Directors, 2023-present
  - Chair, Executive Committee of the Board, 2023-present
  - Member, Board of Directors, 2017-present
  - Chair, Risk Management and Compliance Committee of the Board, 2021-2023
- Partnership for Drug-Free Kids, Arizona Affiliate, Board of Directors, 2014-2016
- Town of Paradise Valley, Arizona, Personnel Appeals Board, 2015-2020; Chair, 2016-2018; Public Safety Personnel Retirement Board, 2013-2015
- Emory College Alumni, Board of Directors, 2012-2015
- Brophy College Preparatory, Dad's Club, 2010-2014
- Phoenix Country Day School, Dad's Club, 2013-2017
- Valley of the Sun United Way, Resource Management Committee, 2011-2014
- Central High School, Destination Graduation Mentor, 2012-2013
- Mary's Food Bank, Volunteer, 2011-2016
- Economic Club of Phoenix, September 2011-2017
- Phoenix Chamber of Commerce, 2011-2017
- State Bar of Arizona, Operation Good Neighbor Program (aiding displaced victims of Hurricane Katrina), Volunteer, 2009
- Junior Achievement of the Central District of Arizona, Board of Directors, 2006-2008
- United Way of Somerset County, New Jersey, General Counsel and Trustee, 1993-1996

Distinctions

- *Best Lawyers in America*
  - Commercial Litigation, 2016-2027
  - Litigation – Banking and Finance, 2026-2027
  - Litigation – Real Estate, 2025-2027
- Martindale-Hubbell, AV Preeminent Rating, 1997-present
- *Southwest Super Lawyers*, Business Litigation and Bank Litigation

Memberships

- National Association of Corporate Directors, 2020-present
- American Bar Association
  - Commercial & Business Litigation Committee, 2013-2017
  - Forum on Franchising, 2016-2017
  - Ethics Subcommittee, Co-Chair, 2013-2014
  - Trade Secrets Litigation Subcommittee, Co-Chair, 2013-2014
- Judge Pro Tempore, Maricopa County Superior Court, 2004-2007, 2014-2015, 2016-2017
- State Bar of Arizona
  - Fee Arbitration Committee, Member, 2005-2012; Chair, 2008-2011
  - Ethics Committee, 2010-2016
- Fellow, American Bar Foundation, 2016-present
- Urban Land Institute, 2013-2017

- New Jersey Supreme Court, District XIII, Ethics Committee appointment, 1996-1997

Presentations and Publications

- "Release of Non-Debtor Third Parties and Enjoinment of Future Claims," *Arizona Attorney* , February 2022
- "Drafting and Enforcing Restrictive Covenants," Spencer Fane WorkSmarts Two-Day Seminar, September 23, 2021
- "Preventive Legal Strategies: Countdown to Success," Spencer Fane Labor and Employment Virtual Seminar, October 15, 2020
- "Taking Squatters to the Cleaners for Using Your Dirt: Best Practices to Avoid and Defeat Adverse Possession Claims," State Bar of Arizona, Real Property Section, Tucson, Arizona, March 8, 2017
- "Litigating Privacy, Data Breach and Cybersecurity Issues in 2014: The SEC View on Disclosure Obligations," American Bar Association Section of Litigation Annual Conference, April 2014
- Risk Management Presentation to Real Estate Agents and Title Agents, October 15, 2013
- "From the Front Line – Legal Hazards and Issues of Interest to Banks and Their Directors," Arizona Bankers Association: Directors and Leadership College, November 2012
- "Real Property Management and Leasing in the Wake of a Trustee's Sale," MCBA Real Estate Series CLE Presentation, February 2012
- "Current Developments in Ethical Issues," State Bar of Arizona's Ethics Committee-Hosted Seminar addressing Ethical Rule 4.4 and related opinions issued by the State Bar of Arizona's Ethics Committee and the American Bar Association regarding the obligations of counsel when privileged communications are inadvertently disclosed, December 14, 2011
- "Managing Your Practice," 2010 State Bar of Arizona Annual Convention, Glendale, AZ, June 2010

Related Experience

- Successful prosecution of 150+ commercial receiverships for bank clients, including evidentiary hearings and trials.
- Successful prosecution and defense of a wide range of expedited injunctive relief and other evidentiary and trial proceedings for banks, employers and owners of real estate in cases ranging in value from $5,000,000 to $60,000,000.
- Successfully defended and defeated an alleged $75,000,000 trade secrets claim in the automobile repossession industry.
- After conducting depositions in defense of a trade secrets claim, persuaded adverse counsel to sign a release to abandon litigation of an alleged $30,000,000 claim asserted against telecommunications client.
- Achieved successful trial, summary judgment, and other favorable results (including recovery of counsel fees) for multiple banks on injunctive relief, commercial receivership, loan enforcement, fraudulent transfer and stay relief proceedings in state and bankruptcy court on loans ranging from $2,000,000 to $75,000,000.
- Obtained a summary judgment ruling for a Fortune 500 mining company, affirmed twice on appeal, along with an award of counsel fees, in the prosecution of a quiet title claim (and related defense of an adverse possession claim asserting ownership of more than 800 acres).
- Resolved numerous condemnation matters for property owners including one case involving a $100,000,000 condemnation of a utility.
- Successfully defended an Arizona manufacturer against a $25,000,000 claim filed in California state court, allegedly arising from a defective prototype to be used for national defense purposes, resolving it days before a nine-day trial for only $15,000.
- After depositions, succeeded in persuading claimant to release $5,000,000 claim filed against a national commercial real estate brokerage firm two days before the commencement of an eight-day AAA arbitration.
- Prosecuted trade secrets rights and remedies for multiple clients resulting in the return of confidential and proprietary materials as well as trade secrets.