

# Kenneth J. Cesta

OF COUNSEL

NEW JERSEY NEW YORK

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## Overview

Ken Cesta is an experienced commercial litigator with more than 30 years of litigation experience in the state and federal courts of New Jersey and several other states. Ken's practice focuses on counseling and defending insurers in insurance coverage disputes and bad faith litigation involving commercial general liability, errors and omissions, employment practices liability, professional liability, directors and officers liability, public entity, cyber, and media policies. He has represented insurers on a wide range of claims, including discrimination, wrongful termination, the Telephone Consumer Protection Act, securities, sexual/physical abuse, molestation, assault, professional liability, data breach, and cyber/technology claims.

Ken also represents financial institutions in debt recovery litigation, including commercial foreclosures in New Jersey and litigation under the Uniform Commercial Code, and was previously part of a national trial team representing two public financial institutions in employment litigation throughout the United States.

Ken also has extensive experience in the e-discovery field, implementing cost-effective e-discovery and litigation readiness plans for his clients. He holds an eDiscovery Executive Certificate from and is a member of the Association of Certified E-Discovery Specialists and is a frequent lecturer on e-discovery topics including managing e-discovery costs and document retention policies.

Ken is a former chair of the New Jersey District VB Ethics Committee and has been appointed by the New Jersey Supreme Court to serve as a special ethics master in several complex disciplinary actions brought by the New Jersey Office of Attorney Ethics. He is a member of the Claims and Litigation Management Alliance and the Association of the Federal Bar of New Jersey.

# Experience

- Represented a New Jersey bank in connection with contested commercial foreclosure, breach of promissory note and guaranty action and related lender liability claims. Obtained summary judgment and foreclosure judgment upon associated commercial development, along with award of attorneys' fees.
- Obtained summary judgment on behalf of a national financial institution dismissing all counts of former employee's federal court discrimination and wrongful termination action.
- Successfully defended a national franchisor in federal court action in New Jersey alleging claims of breach of software licensing agreements. Case settled on favorable terms for client.
- Represented the FDIC as receiver in 11 consolidated federal securities fraud class actions in the District of New Jersey arising out of one of New Jersey's largest bank failures.
- Represented a public financial institution in connection with multimillion-dollar foreclosures of two large commercial properties and related actions on the underlying promissory notes and guarantees. Obtained final judgments resulting in full payment to client.
- Successfully defended a national media company in New Jersey federal court class action alleging violations of the Telephone Consumer Protection Act. Case settled on favorable terms for client.
- Successfully defended a public company and its executive officers in federal court securities fraud class actions in the Eastern District of New York.
- Represented a secured lender in a bankruptcy court fraudulent conveyance action arising out of a \$25 million buyout of a national trucking company. Negotiated and obtained court approval of favorable multi-party settlement liquidating debtor's assets.
- Obtained complete dismissal of discrimination and wrongful termination claims before the Equal Employment Opportunity Commission brought by former employee against national not-for-profit.

# Areas of Focus

## Practices

- [Appellate & Trial Support](#)
- [Creditors' Rights and Bankruptcy](#)
- [Cyber Insurance Coverage Disputes](#)
- [Discrimination](#)
- [Labor & Employment](#)
- [Litigation and Trials](#)

## Industries

- [Property & Casualty Insurance](#)
- [Insurance](#)

- [Insurance](#)

## Insights

03.27.2024

Ninth Circuit Compels Arbitration of Plaintiffs Individual Labor Claims Under PAGA Remands Non-Individual Claims

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02.14.2024

Eleventh Circuit Dismisses Appeal From Order Compelling Arbitration and Staying Case for Lack of Jurisdiction

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01.25.2024

Ninth Circuit Reverses Order Denying Motion to Compel Arbitration Concluding Delegation Provision Is Enforceable

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01.23.2024

Third Circuit Affirms Order Denying Motion to Compel Arbitration After AAA Declines to Administer Arbitration

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12.08.2023

District of Illinois Directs Insurer to Supplement Record to Support Privilege Based on “Common Inte

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12.06.2023

Ninth Circuit Affirms District Court Order Granting Motion to Compel Arbitration of Discrimination C

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11.10.2023

SDNY Confirms Arbitration Award Under New York Convention

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11.08.2023

SDNY Grants Motion to Compel Arbitration of Employee’s Discrimination and Retaliation Claims

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10.18.2023

Eleventh Circuit Affirms Order Compelling Arbitration of Discrimination Claims, Rejects Argument That Arbitration Agreement Was Unconscionable

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09.15.2023

Third Circuit Reverses District Court Order Compelling Arbitration, Highlighting That Arbitration and “Expert Determinations” Are Different Forms of Dispute Resolution

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09.13.2023

Ninth Circuit Affirms District Court Order Denying Motion to Compel Arbitration of Discrimination Claims

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08.18.2023

District of Maryland Holds Insurance Policy’s Appraisal Provision Constitutes Enforceable Arbitration Clause Under FAA

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08.16.2023

Sixth Circuit Holds Validity of Employee’s Electronic Signature Creates Issue of Fact, Reverses Order Compelling Arbitration

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07.28.2023

Federal Circuit Vacates Arbitrator’s Decision Removing Federal Employee From Position, Remands for Further Review

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07.26.2023

Fifth Circuit Affirms Order Dismissing Tesla Lawsuit in Favor of Arbitration

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07.07.2023

South Carolina Supreme Court Finds Contract Didn’t Involve Interstate Commerce, Reverses Order Compelling Arbitration

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06.16.2023

California District Court Finds Defendants’ Conduct Was Not Arbitrary and Capricious Under Administrative Procedure Act

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06.14.2023

Alabama Supreme Court Reverses Orders Denying Motions to Compel Arbitration Under Employment Agreement

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05.26.2023

Third Circuit Joins Other Circuits, Holds Uber Drivers Are Not Exempt From FAA

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05.24.2023

Seventh Circuit Affirms District Court's Order Denying Application to Vacate Arbitration Award

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05.05.2023

Mississippi Supreme Court Affirms Denial of Motion to Compel Arbitration of Wrongful Death Suit

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05.03.2023

Second Circuit Affirms Order Denying Application to Adjourn Enforcement of Arbitration Award Pending Outcome of Parallel Foreign Proceeding

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03.24.2023

Third Circuit Affirms Finding That Defendant Waived Its Arbitration Rights

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03.22.2023

Ninth Circuit Affirms District Order Refusing to Compel Arbitration

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03.03.2023

SDNY Rejects Cross-Petition To Vacate Arbitration Award, Rejecting Claims of Manifest Disregard of Law and "Evident Partiality"

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03.01.2023

Wyoming Supreme Court Affirms Finding That Arbitrator's Determinations Did Not Exceed Authority And Were Not Manifest Errors of Law

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02.10.2023

First Circuit Affirms Order Compelling Arbitration and Rejecting Claim By Postmates Couriers of Exemption From the FAA

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02.08.2023

Second Circuit Rejects Application of the Functus Officio Doctrine and Affirms District Court's Order Denying Petition To Vacate Arbitration Award and Granting Cross-Petition to Confirm Award

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01.20.2023

Ninth Circuit Affirms District Court's Order Denying Online Cryptocurrency Exchange's Motion to Compel Arbitration of Users' Claims

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01.18.2023

Seventh Circuit Affirms District Court Decision Refusing To Refer Putative Class Action Under the Illinois Biometric Information Privacy Act to Arbitration

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12.16.2022

Chancery Division of the High Court of England Sanctions Business Transfer Scheme Involving Applicant Insurance Companies Under the Financial Services Markets Act

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12.14.2022

Supreme Court of Idaho Finds That District Court Had Jurisdiction to Determine Enforceability of Non-Compete Provision in Employment Agreement, Which Included a Mandatory Arbitration Provision

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11.18.2022

Georgia Court of Appeals Confirms Arbitration Award Holding That Arbitrator Did Not Manifestly Disregard Law or Overstep Authority

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11.16.2022

Sixth Circuit Rejects Claim of "Implicit Vacatur" of Arbitration Award and Affirms District Court's Entry of Preliminary Injunction

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10.28.2022

Third Circuit Reverses Judgment Enjoining Arbitration Proceeding, Remands to District Court for Further Consideration

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10.26.2022

Second Circuit Affirms Decision That Insurer Is Entitled to Reinsurance Coverage for an Allocated Portion of Settlement

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10.07.2022

District Court Orders Limited Trial to Address Party's Authority to Sign Arbitration Agreement

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10.05.2022

Fourth Circuit Dismisses Petition Brought by NLRB to Enforce Settlement and Order

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09.15.2022

Third Circuit Affirms Dismissal of Complaint With Prejudice After Plaintiff Failed to Initiate Arbitration Proceedings

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09.13.2022

SDNY Compels Arbitration Pursuant to ADR Provision in Contract Governing Disputed Commercial Transaction

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08.24.2022

Eleventh Circuit Enforces Employee Arbitration Agreement, Concluding That Agreement Was Not Unconscionable

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08.22.2022

Third Circuit Reverses Order Confirming Arbitration Award, Concluding Award Was Procured by Fraud

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08.03.2022

Ninth Circuit Confirms Arbitration Award Finding FAA Disallows Judicial Review of Whether Arbitrator's Factual Findings "Are Supported by the Evidence in the Record"

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08.01.2022

Third Circuit Confirms Arbitration Award Finding Award Was Consistent With Controlling Authority and Arbitrator Did Not Manifestly Disregard Parties' Agreement

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# News

06.19.2019

Carlton Fields Adds Insurance and Commercial Litigator Kenneth J. Cesta in New Jersey and New York

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06.19.2019

Insurance and Commercial Litigator Kenneth Cesta Joins Carlton Fields

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## Recognition

- [AV Rated by Martindale-Hubbell](#)
- [The Best Lawyers in America](#), Corporate Law (2023-2024)
- Appointed by the New Jersey Supreme Court in several matters to serve as a special ethics master in complex disciplinary actions brought by the New Jersey Office of Attorney Ethics against practicing attorneys.
- Appointed to the Neutral Mediator Panel for the Superior Court of New Jersey, Chancery Division, Morris and Sussex counties (2010–2017)

No aspect of this advertisement has been approved by the Supreme Court of New Jersey.

## Professional & Community Involvement

- Association of the Federal Bar of New Jersey
- Claims and Litigation Management Alliance
- District VB Ethics Committee of the Supreme Court of New Jersey
  - Former Member, Vice Chair, and Chair

## Speaking Engagements

- [“Managing High Profile Claims Under EPL, Cyber, and Professional Liability Policies,”](#) Management and Professional Liability Conference, Claims and Litigation Management Alliance, Boston, MA (June 2018)
- [“Trial Strategies and Solutions of Business Disputes When an Insurance Carrier Is Involved,”](#) Current Issues in Business Litigation, New Jersey Bar Association, New Brunswick, NJ (June 2017)



- “Avoiding E-Discovery Spoliation Claims in Employment Litigation,” New Jersey Institute for Continuing Legal Education, West Orange, NJ (November 2016)
- "Trust and Business Accounting Rules for NJ Lawyers," Morris County Bar Association, Morristown, NJ (November 2014)
- “Ethical Implications of E-Discovery,” New Jersey Office of Attorney Ethics, Trenton, NJ (October 2014)

## Credentials

### Education

- Quinnipiac University School of Law (J.D., cum laude, 1986)
- Muhlenberg College (B.A., 1983)

### Bar Admissions

- New Jersey
- New York

### Court Admissions

- U.S. District Court, District of New Jersey
- U.S. District Court, Southern District of New York
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Fourth Circuit

## Background

- Partner, Hoagland Longo Moran Dunst & Doukas LLP, New Brunswick, NJ (2017–2019)
- Shareholder, Bressler Amery & Ross, P.C., Florham Park, NJ (2014–2017)
- Partner, Hoagland Longo Moran Dunst & Doukas LLP, New Brunswick, NJ (2011–2014)
- Partner and Counsel, Edwards Angell Palmer & Dodge LLP, Madison, NJ (1997–2011)
- Associate and Counsel, Commercial Litigation, Budd Larner LLC, Short Hills, NJ (1992–1997)
- Associate, Corporate Law and Commercial Litigation, Dillon Bitar & Luther LLP, Morristown, NJ (1986–1992)