

SHEEHAN PHINNEY

John H. Perten

Shareholder | Boston, MA

John has a general business practice and a broad litigation background. He frequently acts as outside general counsel for companies and organizations who seek practical advice on a wide variety of issues experienced during day-to-day business activities. He works tirelessly to minimize risk and avoid litigation through effective counseling and advocacy. If litigation is unavoidable, he calls upon his litigation background to skillfully navigate the legal process and has multiple court and arbitration victories to his credit.

A significant portion of John's practice is devoted to established and emerging entrepreneurial clients. John's overarching goal is to anticipate and avoid potential legal pitfalls, while working with clients to craft the most effective and economical approach. He has assisted clients in diverse matters including entity formation, internal governance disputes, protection of intellectual property, employment matters, and contract negotiation. While John's experience spans multiple industries, he has extensive background representing members of the construction industry for whom he has negotiated AIA and other types of contracts, prosecuted and defended payment disputes, change order claims and mechanic lien claims. He has written multiple articles and presented several programs on topics focused on the construction industry.

John is an adjunct faculty member at Babson College in Wellesley, MA, where he teaches business law to MBA candidates. He has also taught business law on the undergraduate level. He manages the popular LinkedIn group "Legal Updates for Business Movers & Shakers."

Sample Matters

- Obtained dismissal of products liability action pending in OK for MA client based on jurisdictional grounds. Case involved in-depth analysis of personal jurisdiction under OK law. Resolved insurance coverage dispute favorably, thereby ensuring that client's defense fees were covered, notwithstanding carrier's assertion of late notice under a claims made policy.
- Obtained summary judgment in favor of client in dispute involving interpretation of a purported easement to discharge wastewater into client's pump station and into municipal sewerage system.
- Obtained summary judgment for contractor in a construction defect case based upon argument that subsequent warranty did not revive previously released claims.
- Negotiated a \$10 million contract for the construction of new hotel and a \$15 million dollar contract for brownstone renovation in downtown Boston.
- Helped negotiate and close the sale of company that organizes and coordinates annual convention for comic fans.



Contact Information

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- Negotiated the involuntary dissolution of a partnership and the equitable allocation of partnership assets, without litigation.
- Assisted multiple clients in choosing appropriate form of business entity and drafting of organizational documents.
- Following a multi-day trial, prevailed in an action to set aside a deathbed conveyance of a family farm, thereby allowing the family farm business to continue.
- Resolved partnership dispute involving allocation of purchased securities and return of capital contributions.
- Negotiated tax increment financing agreements (TIF's) and special tax agreements (STA's) for companies seeking to relocate or expand into Massachusetts.
- Acted as general counsel for national firm engaged in crime scene and other biological clean-up projects. Representation included negotiation of insurance claims and disputes with various state regulatory agencies.
- Negotiated resolution of claim in a matter involving embezzlement by a partner. Case resolved through voluntary withdrawal by offending partner and transfer of all partnership assets to the innocent partner on very favorable terms.
- Won arbitration award against a site contractor who abandoned a job following the reduction of a payment requisition. The site contractor argued that the reduction was pretextual and motivated by desire to engage a different contractor.
- Obtained a jury verdict in a contract dispute over the design and manufacture of a piece of machinery to be utilized in a clean room.
- Brought an action for a determination that a 17-acre tract of land in the middle of a residential subdivision had been acquired by the developer through adverse possession. Court granted title company summary judgment, thereby saving millions of dollars in potential damages.

Practice Areas

- Bankruptcy, Restructuring and Creditors' Rights
- Business Formation & Succession Planning
- Business Litigation
- Construction Litigation
- Corporate

Admissions

- Commonwealth of Massachusetts
- State of New Hampshire
- United States Court of Appeals for the First Circuit
- United States Court of Appeals for the Third Circuit
- United States District Court of the District of Massachusetts
- United States District Court of the District of New Hampshire

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- Bar Membership, Massachusetts Bar Association
- Bar Membership, Boston Bar Association
- Bar Membership, New Hampshire Bar Association

Education

- J.D., Suffolk University Law School, *cum laude*
- B.A., Cornell University
- New York University

Civic and Professional Activities

- Adjunct Professor, Business Law, Babson College (Dean's Award for Excellence in Teaching, 2011)
- Board of Directors, Builders and Remodelers Association of Greater Boston
- Former Member, Construction Specifications Institute, CDT Certification
- Former Director, Congregation Beth El of the Sudbury River Valley, Sudbury, MA
- Former Chairman, Zoning Board of Appeals for the Town of Wayland, MA

Publications

- There's a reason we are called 'counsel': lessons learned at mediation
- A Cautionary Tale: Too Much Control Over Your Contractor Could Lead to Liability
- Unreasonable Delay in Executing Settlement Agreement May Constitute a Material Breach
- COVID-19 Construction Update
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- Construction Bond Claims, Mechanics Liens, and COVID-19
- COVID-19 Update for Persons in the Construction Industry
- Coronavirus- An Unexpected Opportunity to Come Back Stronger
- NECCA Presenter – February 2020
- Regardless of What Your Client Says, As a Builder, You Are Ultimately Responsible for Code Compliance
- Court Reaffirms that Securities Laws are There to Protect Consumers

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- The New Massachusetts Retainage Statute: Time to Review Your Standard Contract
- Construction Contracts: No Damage for Delay Clauses – Revisited
- Contractor Private Arbitration Clause in a Home Improvement Contract Does Not Trump Homeowner Statutory Dispute Resolution Procedure
- Three Doors Do Not Equal One Entrance