



Sarena Kustic

Partner

sarena.kustic@wilsonelser.com

San Diego, CA – 619.881.6411

Sarena Kustic defends large corporate entities against serious injury and wrongful death claims, including high-exposure matters. She also represents individuals and businesses in contractual and property disputes. Sarena prides herself on efficiency and effectiveness in the courtroom and in pursuit of an informal resolution.

Sarena has represented plaintiffs and defendants in an expansive variety of civil matters, including breach of contract and warranty, fraud, breach of fiduciary duty, trade secrets, discrimination, premises liability, products liability, personal injury, unfair competition, consumer legal remedies, subrogation, collections, and enforcement of mechanics liens and judgments.

Sarena excels in all stages of litigation through trial, as well as mediation, arbitration and appellate practice. She effectively applies her broad range of skills and abilities to every case she handles, from inception to conclusion.

Commercial Litigation

Sarena defends businesses and corporations in contract, warranty and product liability actions. She also provides clients with strategic counsel to help them make better-informed decisions, resolve complex legal challenges and achieve specific business goals.

Securities

Sarena handles claims that arise in the securities and financial services industries, including regulatory inquiries and enforcement actions, customer disputes and intra-industry disputes.

Aviation

Sarena defends litigation arising from product issues and aviation-related injuries, as well as cases involving aircraft crashes and wrongful death. She is a member of a team with

Services

- Appellate
- Aviation & Aerospace
- Commercial Litigation
- Complex Tort & General Casualty
- Securities
- Transportation

national reach that immediately provides guidance through an NTSB investigation, identification and preservation of relevant documents and electronic information, counsel on remedial measures, retention of relevant outside forensic experts, and preparation for litigation and trial.

Appellate

With the skills to effectively challenge or defend lower-court decisions and assist clients in bringing the litigation cycle to a satisfactory conclusion, Sarena works with the firm's dedicated Appellate Practice to provide forceful arguments and innovative resolutions.

Education

- California Western School of Law (J.D., 2013)
- University of Redlands (B.S. in Business, 2009)

Bar Admissions

- California

Court Admissions

- U.S. Court of Appeals, Ninth Circuit
- U.S. District Court, Central District of California
- U.S. District Court, Eastern District of California
- U.S. District Court, Northern District of California
- U.S. District Court, Southern District of California

Professional Affiliations

- Association of Business Trial Lawyers
- San Diego Defense Lawyers
- Women in Business, San Diego

Awards & Honors

Selected for inclusion in The Best Lawyers in America® Ones to Watch™, 2024-2025

Representative Matters

Obtained dismissal with prejudice at the pleadings stage in the Northern District of California in a premises liability case against a national airline.

Obtained a unanimous defense verdict in the Central District of California, acting as second chair in a jury trial, on a products liability case stemming from a military helicopter crash.

Successfully defended a negligence case against a national financial institution, obtaining dismissal with prejudice through a summary judgment motion.

Successfully vacated a seven-figure default judgment, followed by obtaining a dismissal with prejudice of the complaint in a personal injury case against a national medical air transportation provider.

Obtained dismissal with prejudice at the pleadings stage in the Eastern District of California in a discrimination case against a national airline.

Successfully defended an appeal in the Ninth Circuit stemming from a civil rights action that was dismissed with prejudice.

Successfully defended a civil rights action in the Northern District of California brought by five plaintiffs against a national corporation; despite three amended complaints, the plaintiffs did not survive the pleading stage and the case was dismissed with prejudice.

Defeated a CLRA claim in consumer arbitration, acting as first chair in an evidentiary hearing and obtaining a defense award for a national financial institution.

Successfully first-chaired a bench trial, recovering personal property and title thereto on behalf of a financial institution.

Client Wins

Ready and Kustic Secure Defense Verdict in Case of Alleged Fraudulent Inducement

Marty Ready (Partner-San Diego | San Francisco, CA) and Sarena Kustic (Partner-San Diego, CA) secured a defense verdict in a two-week jury trial in San Diego Superior Court. The case involved a disgruntled shareholder seeking recovery of his \$1 million investment lost due to a failed startup. The plaintiff alleged fraud, breach of fiduciary duty, and rescission against our clients, the former chairman of the board and the failed startup. Although the claims in this trial were based on fraud in the inducement, the plaintiff sought to insert derivative issues (currently the subject of a derivative lawsuit pending in Delaware Chancery Court) in an effort to confuse the jury in the hopes of obtaining a favorable verdict. Fortunately, Marty and Sarena and their team were able to keep the record clean, and the jury focused on only the issues in this case. The jury deliberated for less than three hours and returned a verdict in favor of our clients, never getting past the first question for each cause of action. After the verdict was rendered, the jurors advised counsel that our cross-examination of plaintiff's witnesses was very effective in demonstrating their lack of credibility and our trial presentation was highly persuasive and professional.

Kearns and Kustic Obtain Dismissal with Prejudice at the Pleadings Stage

Patrick Kearns (Partner-San Diego) and Sarena Kustic (Of Counsel-San Diego) obtained dismissal of a complaint with prejudice in a case before the U.S. District Court for the Eastern District of California. The case involved allegations of discrimination arising from

the plaintiff's removal from a flight and being banned from using a national airline, Wilson Elser's client. Patrick and Sarena removed the state court case to the Eastern District of California, then moved to dismiss the complaint for failure to state a claim. The court granted the motion but gave the pro se plaintiff leave to amend. Instead of filing and amended complaint, the plaintiff filed a new state court action adding more causes of action to the complaint. Patrick and Sarena removed the case to federal court once more and filed a second motion to dismiss for failure to state a claim. This time, they argued leave to amend would be futile because, despite the court providing the plaintiff with clear examples of how to plead his claims, the plaintiff's new complaint contained the exact same defects as the prior one. The court agreed and dismissed the complaint with prejudice.

Kustic Granted Summary Judgment on Behalf of Major Credit Union

Sarena Kustic (Of Counsel-San Diego, CA) successfully moved for summary judgment resulting in a dismissal before Los Angeles County Superior Court on behalf of a major credit union client. The underlying breach of contract and negligence case stemmed from the plaintiff's purchase of a vehicle using a cashier's check drawn from her account with Wilson Elser's client. The dealership assumed the check was from loan proceeds and listed the credit union as a lienholder on the vehicle title (in addition to delivering the wrong vehicle to the plaintiff). Once the title error was discovered, the credit union executed the appropriate documents to remove its name from the vehicle title and returned it to the dealership. The plaintiff sued the dealership for breach of contract and named the credit union as a defendant alleging it fraudulently added itself to the vehicle title and created a loan obligation in the plaintiff's name. Sarena tendered the defense to the dealership on equitable grounds, but the dealership refused, prompting a cross-complaint against the dealership for equitable indemnity. Despite the dealership admitting that its mistake was the reason our client was named on the title and no loan obligation was ever created, the plaintiff refused to dismiss the credit union from the case. Sarena moved the court for summary judgment and succeeded in obtaining a dismissal in favor of our client. Thereafter, Sarena successfully negotiated settlement of the cross-complaint against the dealership resulting in a substantial amount of attorney fees recovered from the dealership.

Kearns and Kustic Vacate Seven-Figure Default Judgment and Then Obtain Dismissal of Complaint with Prejudice

Patrick Kearns (Partner-San Diego) and Sarena Kustic (Of Counsel-San Diego) successfully vacated a seven-figure default judgment, and thereafter obtained a dismissal of the complaint with prejudice. The underlying case, filed in 2017, involved a claim against a hospital, a surgeon and Wilson Elser's client, a national medical air transportation provider. The plaintiff alleged she sustained injuries during surgery that were exacerbated by a delay in medical transport. In 2018, the hospital and surgeon were dismissed at the pleadings stage. By 2021, the plaintiff obtained a default judgment against our client, and nearly a year and a half later the plaintiff served the client with a notice of judgment. Patrick and Sarena moved to vacate the default and default judgment, and quash the false return of service, on the grounds that the plaintiff had served some entity other than the client's registered agent for service of process in California. On the eve of the opposition's deadline, the plaintiff stipulated to vacate the default and quash service. Thereafter, Patrick and Sarena moved to dismiss the complaint due to the

plaintiff's failure to effectuate personal service within California's mandatory period of three years from the date the complaint was filed. The court agreed and dismissed the complaint with prejudice.

Aviation Team Obtain Defense Verdict in Case Arising from Special Ops Helicopter Crash

Patrick Kearns (Partner-San Diego) and Sarena Kustic (Of Counsel-San Diego) obtained a defense verdict following a six-day jury trial in Federal Court in the Central District of Los Angeles. The case stemmed from a 2014 crash of a Sikorsky MH-60 Special Operations Helicopter flown by the United States Army's 160th SOAR Division on base at Fort Hunter, Georgia. Litigation against numerous parties were ultimately separated, and litigated in different venues around the country. Wilson Elser's client manufactured and sold a tactical transponder and emergency locator transmitter (ELT) which the 160th had installed on the aircraft. Upon impact, the ELT did not transmit a signal and the plaintiffs alleged it was defectively designed and manufactured, resulting in a delay of first responders to the site of the crash and resulting injuries. The original suit was filed in 2014, and the case against Wilson Elser's client was stayed for approximately five years due to the bankruptcy of a co-defendant. A jury trial finally proceeded in mid-July 2023. After the conclusion of evidence and argument, the jury returned a unanimous defense verdict after approximately 45 minutes of deliberation.

Kearns and Kustic Obtain Dismissal with Prejudice in a Premises Liability Case against National Airline

Patrick Kearns (Partner-San Diego) and Sarena Kustic (Of Counsel-San Diego) obtained dismissal of a case with prejudice at the pleadings stage. The case involved allegations of personal injuries stemming from an employee of Wilson Elser's client, a national airline, playing with a remote control car outside the airline's hangar. The plaintiff claimed the remote control car struck his foot at a high rate of speed and caused severe injuries. Patrick and Sarena succeeded in removing the state court case to the Northern District of California, then moved to dismiss the complaint for failure to state a claim. The plaintiff filed a late opposition and failed to respond to the court's order to show cause. The court dismissed the case without prejudice. Six days after the statute of limitations expired, the plaintiff filed the same complaint once again in state court, and Patrick and Sarena removed the case to the Northern District once more. They then moved to dismiss the complaint for failure to state a claim and included an argument based on the expiration of the statutory period. The plaintiff again missed the deadline to oppose and failed to respond to the court's order to show cause. The court thereafter granted the defense's motion and dismissed the case with prejudice.