

# Timothy B. Fitzgerald

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## About

Tim Fitzgerald is a business litigator and commercial litigator who practices in the Litigation and Trial group at McNaul Ebel. He has represented businesses and individuals in connection with a wide range of commercial disputes in state and federal trial courts, in appellate courts, and in arbitration, and has extensive experience representing both plaintiffs and defendants in Seattle and around the country.

Tim's diverse litigation, trial, appellate, and counseling experience includes disputes involving corporate governance, securities, insurance, commercial real estate, intellectual property, licensing, professional liability, and fiduciary duty issues. Tim has represented and advised numerous clients in trademark proceedings before the TTAB. He has litigated numerous complex corporate dissolutions, and represents cryptocurrency funds and blockchain professionals regarding a range of litigation and non-litigation matters.

Prior to joining McNaul Ebel, Tim was associated with the New York law firm of Boies, Schiller & Flexner LLP. He served as general counsel to Gordon Group Holdings, and he has served as a law clerk to the Honorable Ricardo S. Martinez of the US District Court for the Western District of Washington and the Honorable Paul E. Davison of the US District Court for the Southern District of New York. In law school, Tim served as Senior Articles Editor of the *Northwestern University Law Review*.

## Representative Cases & Matters

- Represent cryptocurrency exchange in customer dispute concerning application of federal regulations; following week long arbitration, obtained complete defense victory.

### Practice Areas

Litigation & Trial Practice

### Education

Northwestern University School of Law (JD)

University of Illinois (BA)

### Bar Admissions

Washington

New York

District of Columbia

South Carolina (Inactive)

### Court Admissions

US District Court for the Western District of Washington

US District Court for the Southern District of New York

- Represent international group of investors regarding their multi-million dollar investments in a foreign cryptocurrency exchange; through negotiation and strategic use of the company's corporate governance structure, Tim caused the company to redeem his clients' investments, and to fully reimburse their attorneys' fees and costs.
- Represent various blockchain and cryptocurrency companies in connection with investigations undertaken by the Securities Exchange Commission (SEC), including investigations involving initial coin offerings (ICOs) and related matters.
- Represent founder of a prominent venture fund in partnership dispute with his co-founder; obtained settlement regarding most issues, followed by a favorable arbitration award regarding the others.
- Represent an investor in FINRA arbitration against a New York-based clearing agent and brokerage firm arising out of a multimillion-dollar pump-and-dump scheme; following a week-long arbitration, obtained an eight-figure arbitration award.
- Conducted an internal investigation of a \$12 billion investment management firm regarding alleged violations of the Investment Advisers Act of 1940.
- Represent a Harvard Business School professor and best-selling author, along with related corporate entities, in a corporate dissolution dispute; obtained summary dismissal of all claims and represented clients successfully on appeal. A copy of the Court's decision is available [here](#).
- Represent marine logistics company in a multi-million dollar dispute with a publicly-traded Singaporean company regarding its interference with international charter contracts; obtained a settlement on the eve of trial.
- Represent private equity firm in real estate dispute with the declarant for the Redmond Town Center regarding a supposed use restriction on the client's property; obtained declaratory judgment that the property is not subject to the supposed use restriction.
- Represent an insurer in coverage and bad-faith dispute with a pharmaceutical company; obtained a summary dismissal of bad-faith claims, and in the subsequent jury trial, obtained a verdict discounting the remaining amount of claimed damages by 95%; successfully defended client on appeal. A copy of the appellate opinion is available [here](#).
- Represent national restaurant franchise in forfeiture action concerning late payment of percentage rent; on appeal, successfully upheld trial court ruling restoring restaurant's rights under its 40 year lease. A copy of the appellate opinion is available [here](#).

- Represent law firm in legal malpractice claim arising out of a high-profile criminal litigation matter; obtained early dismissal by motion of most claims, and, following his deposition, the plaintiff voluntarily dropped all remaining claims.
- Represent law firm in significant fee dispute with former client; obtained summary judgment for the full amount of outstanding fees, together with an award of attorneys' fees and costs.
- Represent technology company in related lawsuits concerning its rights in commercial real estate located in Seattle's South Lake Union neighborhood; obtained a settlement on the eve of trial.
- Represent group of insurers in coverage action relating to a significant environmental exposure; obtained order of dismissal as to all clients and entry of contribution bar order against remaining insurers.
- Represent investor in action against a technology company and its founder under the Washington State Securities Act (WSSA) and for breach of contract; obtained a judgment against both defendants for the full amount of damages, attorney's fees, and costs.
- Represent video game company in a federal copyright matter that was resolved successfully.
- Represent a musician in a dispute concerning his founding ownership interest in a well-known video game company; following a week-long arbitration, obtained a ruling that the client was entitled to significant vested stock in the company and was entitled to continued payment under the company's profit participation plan. Media coverage of the case, along with a link to the arbitrator's ruling, is available [here](#).
- Represent a corporate executive against claims under state and federal RICO laws relating to the collapse of a real estate conglomerate; obtained summary dismissal of all claims.
- Represent a shopping mall developer in an action against a publicly traded real estate investment trust concerning ownership of commercial real estate located on the Las Vegas Strip; obtained a settlement on the eve of trial.

## Awards

- Selected by Washington Law & Politics as a Super Lawyer (2020) and a Rising Star (2013–2016)
- Rated Superb (10.0/10.0) by Avvo

## Publications

- A WSSA Put Option? Our State Supreme Court's Decision in *Federal Home Loan Bank of Seattle v. Credit Suisse (USA) LLC* Exacerbates Risk Asymmetry for Securities Issuers and Investors in Washington State, [MENH Blog](#) (Jun. 2020)
- If Regulators Come Knocking About Your ICO, They Likely Will be Looking at One (or More) of These Issues, [MENH Blog](#) (Jan. 2018)
- Picking Battles and Winning Wars: The Art of Choosing the Right Battles During Discovery, *WSBA Litigation News*, Vol. 25, No. 4 (Fall 2013)
- The 'Inherent Risk' Doctrine, Amateur Coaching Negligence, and the Goal of Loss Avoidance, 99 NW. U. L. Rev. 889 (2005)