

# 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, antitrust, insurance, commercial real estate, intellectual property, licensing, professional liability, and fiduciary duty issues. He has litigated numerous complex corporate dissolutions, and represents videogame studios, 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

- Defend videogame studio in putative class action alleging claims for breach of contract, declaratory judgment, unjust enrichment, and violations of Washington's Consumer Protection Act ("CPA"); obtain full dismissal with prejudice of all claims under Federal Rule 12(b)(6), and successfully represent client on appeal.

### 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 Court of Appeals for the Ninth Circuit

US District Court for the Southern District of New York

- Represent cryptocurrency exchange in customer dispute concerning application of federal regulations; following week-long arbitration, obtained complete defense victory.
- Represent 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.
- Represent investors in dispute with cryptocurrency issuer and its founders regarding wrongfully tainted tokens; following week-long arbitration, obtained multi-million dollar recovery.
- Represent investors in FINRA arbitration against clearing brokers who failed to warn of registered investment advisor's improper trading activity; following a three week evidentiary hearing, obtained seven-figure damages award and attorneys' fees and costs; successfully represent clients on appeal. A copy of the appellate court opinion is available [here](#).
- Represent musician in a dispute concerning his founding ownership interest in a well-known video game studio; 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 individuals and business entities in connection with regulatory investigations undertaken by the Securities Exchange Commission (SEC), Commodity Futures Trading Commission (CFTC), and Department of Justice (DOJ).
- 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 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 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.

## Awards

- Selected by Washington Law & Politics as a Super Lawyer (2020-2022) and a Rising Star (2013–2016)
- Rated Superb (10.0/10.0) by Avvo

## Publications

- 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)