



Thomas L. Hutchinson

Shareholder
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Tom Hutchinson's Washington and Oregon business litigation practice focuses on advising entities and individuals regarding a wide range of issues with an emphasis on disputes involving financial matters. After obtaining a Bachelor of Science degree in Accounting, he spent three years as a financial consultant with a top-tier CPA firm. His areas of expertise include all varieties of commercial disputes, litigation involving claims against attorneys, accountants, and financial advisors, and general contract litigation. He has handled matters involving corporate director and officers, including Securities and Exchange Commission investigations. Tom has also been involved in a number of matters involving Registered Investment Advisors, hedge funds, venture capital funds, and mortgage backed securities.

Tom is a ranked lawyer in *Chambers USA*, America's Leading Lawyers for Business. In 2020, Chambers observed stated that he "leverages his background in accounting when representing clients from the financial services sector in business litigation. He is additionally instructed by clients in the real estate sector, as well as nonprofits." His clients describe him as "a prepared and thoughtful attorney."

Representative cases include the following:

Represented CPA Firm in Connection With SEC Investigation

Represented Washington CPA firm in connection with SEC investigation alleging audits of pooled investment funds were not performed in accordance with Public Company Accounting Oversight Board requirements.

Represented CPA in \$100 Million Business Valuation Claim by Directors and Officers (Oregon State Court)

Defended CPA in connection with \$100 million claim for valuation and other opinions regarding the sale of a subsidiary entity. Directors and officers directly involved in the sale transaction, including insiders who formed the buyers group, brought claims against CPA for negligence and aiding and abetting after certain directors and officers were held to have breached fiduciary duties owed to entity.

Represented CPA in \$35 million Securities Claim (Oregon State Court)

Defended CPA in connection with tax and other accounting work done for investment fund whose managers plead guilty to securities fraud. Engagement included dealing with FBI and US Attorney investigation and class certification and settlement in connection with investor claims.



Represented Business Owner in Preliminary Injunction Proceedings to Unfreeze \$1 Million Bank Account (Oregon State Court)

Successfully obtained release of \$1 million cash in bank account that was wrongfully seized by creditor whose debt was disputed. After two weeks of proceedings before trial court, account was released and matter resolved in favor of client.

Represented Credit Union in Two Week Jury Trial (Oregon State Court)

Defended credit union regarding claims of negligence and Uniform Commercial Code (UCC) conversion in connection with withdrawals from customer's account by customer's investment advisor.

Represented Officer of Publicly Traded Company in SEC Investigation

Responded to SEC investigation on behalf of corporation president related to withdrawn and re-issued financial statements.

Represented Broker-Dealer in \$5 Million Securities Claim (Oregon State Court)

Represented Broker Dealer in claims brought against it for its Registered Representative's violation of Oregon Securities Law. Claims involved selling away and related to a Ponzi scheme perpetrated by a rogue financial services agent.

Represented Debtor in \$375 Million Loan Dispute (U.S. Bankruptcy Court, Montana)

Represented debtor-in-possession in adversary bankruptcy proceeding challenging validity of \$375 million security interest of major global investment bank. Resulted in a court ruling against bank, subordinating its secured position. Court found bank's offshore syndication of "recapitalization loans" to owners of resort real estate developments was a predatory lending practice. Also litigated claims of breach of fiduciary duty against former owner of debtor seeking repayment of more than \$200 million of loan proceeds taken out of debtor company.

Represented Venture Capital Funds in Claims Against Fund Manager and CPAs (Multnomah County, Oregon)

Represented three venture capital investment funds in a five week jury trial resulting in a \$60 million verdict in favor of clients. Jury found conversion and breach of fiduciary duty on the part of the fund manager and fraud and negligence on the part of CPA firm. Jury award included \$15 million in punitive damages.

Represented Hedge Fund CPA in Claims Brought by CFTC Receiver (U.S. District Court, District of New Jersey)

Represented CPA in connection with claims made by receiver of fraudulently operated hedge fund. Defended CPA firm against claims



of negligence and participation in scheme to defraud investors. Worked cooperatively with the U.S. Commodities Futures Trading Commission (CFTC) and the North Carolina U.S. Attorney's office responsible for prosecuting criminal charges against the hedge fund managers.

Represented Insurer in Lost Profits Claim (Cook County, Illinois)

Represented insurer in connection with claims made by insured for in excess of \$5 million of future lost profits allegedly arising out of property damage. Appellate court judgment in favor of client dismissing insured's claims and dismissing subsequently filed bad faith claim.

Represented Former NFL Quarterback (U.S. District Court, District of Oregon)

Represented former NFL quarterback, and succeeded in transferring Oregon litigation filed by Lloyds of London to Los Angeles, CA where litigation had previously been filed by client. Litigation related to a \$5 million disability policy.

Represented Pension Fund in Claims Against Investment Monitor (U.S. District Court, District of Oregon)

Represented union trustees in connection with claims against pension fund investment monitor. Claims related to millions of dollars of damages arising out of investment monitor's failure to communicate known misconduct on the part of Capital Consultants, an investment advisor managing pension fund assets. Claims included breach of fiduciary duty and aiding and abetting the tortious conduct of Capital Consultants.

Practice Areas

Commercial Litigation
COVID-19 Response
Professional Liability / D&O

Industries

Professional Services

Education

Louisiana State University, School of Law - J.D., 1992
University of Minnesota - B.S. - Accounting, 1987

Bar Admissions

- Louisiana, 1992
- Oregon, 1999
- Washington, 2014

Professional and Civic Involvement



- Defense Research Institute (Chair, Professional Liability Committee, Financial Advisory Services Substantive Law Group)
- Financial Executives Networking Group (Member, Portland Chapter)
- Litigation Counsel of America (Fellow, 2015-Present)
- Louisiana Court of Appeal (Judicial Law Clerk for the Chief Judge, 1992-1993)
- Multnomah Bar Association (Member)
- Oregon Association of Defense Counsel (Member; Vice Chair, Commercial Practice Group)
- Oregon Museum of Science and Industry (Member, Board of Trustees)

Awards and Honors

- Named one of Oregon's top general commercial litigation lawyers by *Chambers USA* (2020 & 2019 — Litigation: General Commercial)
- AV[®] Preeminent[™], Peer Review Rated by Martindale-Hubbell
- Selected for inclusion in *Oregon Super Lawyers* (2019, 2018, 2017, 2016, 2015, 2014, 2013, 2012, 2011 — Business Litigation)
- Selected for inclusion in *The Best Lawyers in America*[®] (2020, 2019, 2018, 2017, 2016, 2015, 2014, 2013 — Commercial Litigation)
- Named as a "Local Litigation Star" by *Benchmark Litigation* (2018, 2017, 2016, 2015, 2014, 2013, 2011, 2010 & 2009 — General Commercial; Professional Liability; Securities)

Publications and Presentations

- Co-Speaker, "Maximizing Forgiveness Under the Paycheck Protection Program," Webinar, May 2020
- Co-Speaker, Benefits and Pitfalls Under the CARES Act that Every Small Business Needs to Understand," Webinar, April 2020
- Panelist, "Putting Investors First," CFA Society Portland Finance Expo (2016)
- Co-Speaker, "Demystifying Damage Defenses in Claims Against Accounting and Financial Professionals," Defense Research Institute (DRI) Professional Liability Seminar (2015)
- Co-Author, "Identifying and Calculating Recoverable Damages and Predicting Risks in Cyber Security Breaches," Willamette Management Associates, *Insights* (2014)
- Co-Speaker, "Advanced Commercial Damages," Oregon Association of Defense Counsel (OADC) Commercial Practice Seminar (2014)
- Co-Author, "Hacked: How Target's Data Breach Affects the



- Cyber Liability Landscape," Defense Research Institute (DRI) Professional Liability Committee Newsletter, *Riding the E&O Line* (2014)
- Co-Author, "Pointing the Finger: Bernie Madoff and the Potentially Changing Landscape of Trustee Claims," Defense Research Institute (DRI) Professional Liability Committee Newsletter, *Riding the E&O Line* (2014)
 - Speaker, "An Overview of Professional Liability Issues as They Apply to Auditors Performing Municipal/Governmental Audits," Oregon Society of Certified Public Accountants Winter Governmental Auditing & Accounting Conference (2013)
 - Speaker, "Defending Accountant Malpractice Claims," Defense Research Institute (DRI) Professional Liability Webcast Series (2013)
 - Speaker, "Securities Fraud Cases: Trends, Developments, and What Financial Professionals Need to Know about Oregon Law," Financial Executives Networking Group (FENG) Networking Meeting (2012)
 - Co-Speaker, "The Securities Fraud Case – Plaintiff and Defense Perspective," Multnomah Bar Association (2012)
 - Author, "To Arbitrate or Not to Arbitrate: That Is the Question," Defense Research Institute (DRI) Professional Liability Committee Newsletter, *Riding the E&O Line* (2012)
 - Chapter Co-Author, "Professional Negligence," Oregon State Bar (OSB) *BarBooks™ Torts*, 2012 Revision (2012)
 - Co-Author, "What Liability Issues Do Businesses Often Overlook?: Fiduciary Duty Owed," Portland Business Journal (2011)
 - Author, "Accountants: Risks Presented in the Preparation of Compilation Reports for Private Investment Companies," Defense Research Institute (DRI) Professional Liability Committee Newsletter, *Riding the E&O Line* (2009)
 - Co-Author, "Pretrial Professionalism in Oregon: A Summary of the American College of Trial Lawyers Code of Pretrial Conduct," Oregon State Bar (OSB) *Litigation Journal*, Vol. 24, No. 2 (2005)
 - Speaker, "Upcoming Changes to the Federal Rules of Civil Procedure Re: Electronic Discovery," Multnomah Bar Association (2005)
 - Speaker, "Professional Liability Claims against Appraisers," American Society of Appraisers & Oregon Society of Farm Managers and Rural Appraisers Appraisal Institute, Joint Meeting & Program (2003)