







# C. Marie Eckert

Partner

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 @millernashllp

**“Clients value my pragmatic and thoughtful approach to resolving legal problems; the first step in that process is listening. Having been in my client’s position before private practice, I am adept at assessing risk and reward, cost and benefit, recognizing when a case should be tried, or when disputes are best resolved outside of the courtroom.”**

C. Marie Eckert is a successful litigator who has tried cases in state, federal, and bankruptcy courts. She has a broad range of experience, with a particular focus in trusts and estates litigation, financial institutions litigation, business litigation, and insurance recovery matters.

A sampling of her clients include financial institutions, trustees, beneficiaries, corporate shareholders, business owners, manufacturers, franchisees, and non-profits. Marie has handled a wide range of complex commercial cases, including contract and business valuation disputes, business torts, lender liability claims, employment, and environmental litigation. She takes a pragmatic, solution-driven approach to resolving disputes and enjoys helping clients achieve the best outcome in the most effective and cost-efficient way possible.

Prior to joining Miller Nash in 2002, Marie worked at U.S. Bancorp as litigation manager and senior corporate counsel in charge of litigation for a six-state region.

## Professional Activities

- Multnomah Bar Association, member
  - Multnomah Bar Foundation, board of directors, 2020-present
- Oregon State Bar
  - Litigation Institute and Retreat, planning committee, 1997-2014
  - House of Delegates, representative, 2003-2009
  - Business Litigation Section, executive board, 1996-2002; chair, 2002
- St. Andrew Legal Clinic Wine Auction, planning committee, 2007-2012
- Oregon Association of Defense Counsel, board of directors, 2000-2002; Commercial Litigation Practice Group, chair, 1998-1999
- Oregon Lawyers Against Hunger, team captain, 1997-1999

## Education

J.D., Lewis & Clark Law School, *magna cum laude*, 1988

- Research and Development Editor, *Environmental Law*

B.A., University of Michigan, English, 1985

## Bar Admissions

California, 2016  
Washington, 2015  
Oregon, 1988

## Court Admissions

U.S. Tax Court, 2007  
  
U.S. Court of Appeals for the Ninth Circuit, 1993  
  
U.S. District Court, District of Oregon, 1988

- Oregon Women Lawyers, member
- Federal Bar Association, member
- American Bar Association, member

### **Civic Activities**

- Literary Arts, board of directors, 2013-2019
- Big Brothers Big Sisters Columbia Northwest, board of directors, 2007-2009
- Portland State University School of Business Administration, Law for Managers, adjunct professor, 2007

### **Representative Experience**

#### **Trusts & Estates Litigation**

- Represented institutional trustee, acting as a successor trustee and special fiduciary for a financially-incapacitated settlor, in administering trusts that collectively held in excess of \$100 million of real property, in litigation and trust administration involving numerous disputes among family member beneficiaries, appraisal and valuation of trust assets, and ongoing management of commercial properties owned by the trusts.
- Defended family-member trustees in dispute with sibling beneficiaries, regarding valuation and management of ongoing family business enterprise, including disputes regarding discounts of fractional interests in business for lack of marketability and control; prevailed on summary judgment.
- Represented individual beneficiary on numerous claims of breach of fiduciary duty against family-member trustees relating to mismanagement of trust assets, including limited liability companies owned in part by family trusts and holding millions of dollars in commercial real estate; obtained favorable post-trial settlement; successful defense of counterclaims including attempted invocation of no-contest clause.
- Represented non-profit and charitable entities on matters including enforcement of charitable pledge agreements, disputed bequests, and trust and will contests; obtained favorable judgments or settlements.

#### **Financial Institutions Litigation**

- Successfully represented various financial institutions in actions by consumers alleging wrongful foreclosure, violations of the Truth in Lending Act, the Real Estate Settlement and Procedures Act, the Fair Housing Act, and claims related to the proper role of the Mortgage Electronic Registrations Systems, Inc. in real estate transactions.
- Successfully represented various financial institutions in judicial foreclosure actions and actions on personal guaranties arising from multimillion-dollar real estate ventures, including defense of lender liability counterclaims.
- Represented financial institution in federal-court action for breach of contract, fraud, and violations of the Racketeer Influenced and Corrupt Organizations Act (RICO) and in adversary proceeding in related bankruptcy action against the perpetrators of a credit-card scam involving a merchant account. Succeeded in obtaining judgment against one defendant for \$3.9 million and judgment against another defendant for \$12.7 million, including treble damages for RICO violations.
- Defended financial institution in “faithless bookkeeper” check case based on common-law conversion and Uniform Commercial Code claims with respect to 570 allegedly unauthorized checks. Case settled in advance of trial after grant of partial summary judgment in favor of client.

#### **Insurance Recovery**

- Represented former owner of wood products manufacturing facility in insurance coverage actions in state, federal, and bankruptcy courts to obtain coverage for historical environmental contamination.

- Represented former rail car manufacturer in obtaining insurance coverage for environmental contamination arising from Portland Harbor Superfund site. Case resolved favorably after filing of insurance coverage complaint. Continue to represent client with respect to ongoing coverage issues related to defense and indemnity costs.
- Represented former manufacturer of diethylstilbestrol and one of its primary insurers in coverage action, including successful trial on lost policy issues.
- Ongoing representation of several business clients on coverage matters involving properties with environmental contamination.

### Business Litigation

- Represented managing member of limited liability company in dispute with former member involving business valuation and claims for breach of contract and usurpation of corporate opportunity.
- Represented numerous businesses in breach of contract and business tort claims.
- Defended franchisee against claims by state attorney general that it engaged in unlawful trade practices. Engaged in extensive negotiations with the attorney general that ultimately resulted in resolution of claims without litigation; handled related insurance coverage issues.

### Publications

- “Enforceability of a Charitable Pledge Agreement Against a Donor’s Estate or Trust,” Nonprofit Association of Oregon, *Members-Only Newsletter* (July 2018)
- “Chapter 5: Local Practice in the District of Oregon—2017,” Oregon State Bar, *Practicing Law in Oregon*, co-author (Jan. 2017)
- “Discretionary Trusts—Providing Guidance to Your Trustee,” Miller Nash, *Estate Planning Advisor* (Jan. 2011)
- “Tort or Contract,” Oregon State Bar, Oregon Statutory Time Limitations CLE (1998)
- “Actions Against Insurers,” Oregon State Bar, Chapter 11 in Insurance OSB CLE (1996)

### Presentations

- “Discretionary Trust Distributions of Principal and Income: Avoiding Beneficiary Challenges and Adverse Tax Consequences,” Strafford Publications, CLE webinar, co-presenter (Apr. 2019)
- “The Uniform Prudent Investor Act—A Trustee’s Duties and Potential Liability for Investment Decisions,” Multnomah Bar Association, CLE (Nov. 2018)
- “Discovery Motions—Take the High Road and Keep Your Eyes on the Prize,” Oregon State Bar, Effective Motion Practice CLE seminar, panelist (Oct. 2018)
- “That Wasn’t the Plan: Understanding How Estate Plans Turn into Litigation,” Multnomah Bar Association, CLE (May 2018)
- “Local Practice in the U.S. District Court for the District of Oregon,” Oregon State Bar, *Practicing Law in Oregon* CLE (June 2017)
- “Old Dogs and New Tricks — the Saga of Lender Liability Pratfalls,” Oregon State Bar, Debtor-Creditor Section CLE and Annual Meeting (Sept. 2013)
- “Local Practice in the U.S. District Court for the District of Oregon,” Oregon State Bar, *Practicing Law in Oregon* CLE Seminar (June 2013)
- “Humanizing the Corporate Defendant,” Oregon Association of Defense Counsel, Annual Convention (June 2012)
- “Litigators’ Tips for Business Lawyers,” Multnomah Bar Association, panelist (Apr. 2012)
- “Discovery Motions,” Oregon State Bar, Powerful Motion Practice seminar (Nov. 2011)
- “Key Issues in Trial,” Oregon State Bar, Litigation Institute and Retreat, moderator (Mar. 2009)

- “Trust Litigation,” Lorman Education Services, Oregon Trust Law seminar (Oct. 2008)
- “The Buck Stops Here—Guarding Against Check Fraud by Employees,” U.S. Bank, client seminar series (Mar. 2008)
- “Watching for Sharks While Surfing—Navigating Difficult Attorney-Client Privilege and Waiver Issues” Oregon State Bar, Litigation Institute and Retreat (Mar. 2005)
- “What’s Important to In-House Counsel,” Oregon State Bar, Litigation Section CLE (Feb. 2004)
- “Working With In-House Counsel to Effectively Defend Litigation,” Oregon Association of Defense Counsel, CLE (Feb. 1999)
- “Discovery of Electronic Evidence,” Oregon Women Lawyers, OWLs Technology Conference (Sept. 1998)
- “Electronic Discovery of Computer-Based Evidence,” Oregon Association of Defense Counsel, Annual Convention (June 1997)

### Recognition & Honors

- Selected for inclusion in *The Best Lawyers in America*® in Commercial Litigation, Litigation-Banking and Finance, and Litigation-Trusts and Estates, 2019-present
- Selected for inclusion as an Oregon Super Lawyer, 2012-present
- Named an “Oregon Litigation Star” by *Benchmark Litigation*, 2017-Present
- Rated AV® Preeminent™ by Martindale-Hubbell®

### Personal Activities

Marie enjoys modern and jazz dance, tennis, reading, traveling, and spending time with her daughters.