



# Kellen A. Hade

 Partner

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**“Lawyers should advance their client’s business objectives, not hinder or distract from them. Pragmatism is key. While litigation may be right for some disputes, others may need just a phone call. I commit to offering you thoughtful, practical advice.”**

Kellen Hade partners with technology companies and financial institutions to resolve disputes with customers, employees, and other businesses. He works with his client and the opposing side to solve the problem swiftly and efficiently. When litigation can’t be avoided, Kellen is a zealous advocate, representing clients in state and federal courts and arbitration. His experience extends to first-chair representation and appeals

Kellen counsels clients through many types of business problems, including contract, partnership, consumer, internet, trademark, and trade secret matters. He also advises clients in discrimination and other employment matters. Kellen has extensive experience with non-competition, non-solicitation, and non-disclosure agreements, having resolved hundreds of these disputes for one of the world’s largest companies.

Similarly, Kellen’s experience working with financial institutions is expansive. He has defended claims under the UCC, RESPA, TILA, ADA, and consumer protection statutes, among others, and has significant experience defending class action claims. He helps clients in loan workout situations, including loan modifications, refinancing and, if necessary, litigation. He also advises on operational and regulatory matters.

Before private practice, Kellen served as a law clerk to Justice Mary Yu of the Washington State Supreme Court and Judge Robert Whaley of the United States District Court for the Eastern District of Washington. He is an appointee to the King County Bar Association’s Judicial Candidate Evaluation Committee and serves on the QLaw Association’s board of directors. Kellen also co-chairs the firm’s pro bono committee.

## Education

J.D., University of California, Berkeley School of Law, 2011

- Member, *California Law Review*

Oregon State University, 2007

## Bar Admissions

Washington, 2012

## Court Admissions

U.S. District Court, Eastern District of Washington

U.S. District Court, Western District of Washington

U.S. Court of Appeals for the Ninth Circuit

## Professional Activities

- Qlaw Association of Washington, president-elect
  - President, 2021-present
  - President-elect, 2020-2021
  - Board member, 2018-present
- Legal Foundation of Washington
  - Campaign for Equal Justice, board member, 2020-present
- King County Bar Association, member
  - Judicial Candidate Evaluation Committee, 2019-present
- Washington Initiative for Diversity
  - Legal Executive Diversity Summit Planning Committee, 2021-present
  - Winter Stakeholder Gathering Planning Committee, 2020
- Washington State Supreme Court, Washington Bar Licensure Task Force, 2021-present
- Washington State Bar Association, member
- Federal Bar Association of the Western District of Washington, member
- Copyright Society of the USA, member

## Civic Activities

- Oregon State University Seattle Business Roundtable, planning committee

## Representative Experience

### Media & Technology

- Represent clean tech company in shareholder derivative suit alleging that officer converted company's intellectual property to start competing business (King County Sup. Ct., ongoing)
- Represent biopharmaceutical company in declaratory action challenging noncompete agreements of new hires in response to lawsuit brought by their former employer in another state. (King County Sup. Ct., ongoing)
- Represent multinational technology company in noncompete, nonsolicitation and confidentiality agreement disputes (ongoing)
- Defended multinational technology company in suit by former employee alleging that client conspired to exclude her from the industry. Court dismissed claims before discovery over plaintiff's objection. (W.D. Wash. 2021)
- Represented executive in high-profile lawsuit brought by former employer, asserting claims that our client misappropriated trade secrets, violated fiduciary duties, and breached contractual obligations. Settled before trial.
- Defended blogger alleged to have infringed copyrights of a professional football scouting organization, successfully arguing that the use was a fair use.
- Secured preliminary and permanent injunctions and return of two domain names to company whose former IT employee had commandeered its websites and e-mail address.

### Banking & Financial Institutions

- Defend banks in putative class actions by accounting firms alleging banks owed them fees associated with Paycheck Protection Program loans (multiple jurisdictions, ongoing)
- Defend banks and credit unions against class actions by customers alleging unfair and deceptive APPSN overdraft fee practices (multiple jurisdictions, ongoing).
- Defend banks against putative class actions by customers challenging NSF fees on allegedly "same item" transactions (multiple jurisdictions, ongoing).

- Advise credit union regarding state arbitration and class action waivers and revised deposit account agreements to reflect the same (ongoing).
- Defended regional bank in putative class action lawsuit alleging unfair and deceptive overdraft fees. Court dismissed claims before discovery over plaintiff's objection. (Mult. Co. (Ore.) 2020)
- Represented national bank in class action cases involving alleged data breach. Cases consolidated into multidistrict litigation. (W.D. Wash. 2019)
- Represented credit union in claim arising from payable-on-death account designations. Dismissed on summary judgment. (King County Sup. Ct. 2019)
- Obtained complete dismissal of RESPA and consumer claims against credit union. (W.D. Wash. 2019)
- Represented bank in claim by accountholders arising from wire fraud involved in purchase of new home, alleging that bank negligently aided and abetted fraud. Dismissed before discovery. (D. Ariz. 2019)
- Represented bank in claim by accountholder's estate alleging bank unlawfully allowed access to account by family member. Dismissed on summary judgment. (Grays Harbor Sup. Ct. 2019)
- Represented bank in claims arising from bookkeeper's embezzlement. Pre-discovery mediation reduced plaintiff's damages by 95 percent and the case settled favorably (SnoCo. Sup. Ct. 2017)
- Represented credit union in claim related to internet scam and check fraud. Obtained favorable settlement at pre-filing mediation, before discovery or motion practice (King County Sup. Ct. 2016)
- Represented buyer of failed bank from FDIC, as receiver, in \$20 million breach of lease claim. Dismissed before discovery. (E.D. Wash. 2013)
- Represented bank in lawsuit by heirs regarding the deceased's payable-on-death accounts. The court dismissed all claims on summary judgment.
- Defended bank and obtained early dismissal of multimillion-dollar breach-of-lease claim.

### Business Litigation

- Represented sellers of aerospace manufacturing company in post-acquisition dispute about value of company's inventory. Second-chaired arbitration hearing, after which the arbitrator found in our clients' favor and dismissed buyer's \$5 million claim for damages with prejudice.
- Represented sellers of veterinary practice against breach of contract claim by buyers. First-chaired arbitration hearing, after which the arbitrator dismissed the buyers' claim and awarded our clients their attorneys' fees.

### Employment

- Represented grocer in wage and hour class action during removal to federal court under the Class Action Fairness Act.
- Obtained complete dismissal for employer on employee's claims of negligence, retaliation, breach of contract, and infliction of emotional distress.
- Represented employer in covenant not to compete case filed by former employer where our client was charged with tortiously interfering with salesman's covenant not to compete with the prior employer. Plaintiff settled its claims against our client after we filed summary judgment to dismiss all plaintiff's claims.

### Intellectual Property

- Represented snack-food manufacturer in patent and trade dress litigation.
- Defended publishing company against claim for trademark infringement.

### Publications

- "Employee Noncompete Agreements Have Uncertain Future after Executive Order," Miller Nash, *News You Can Use* (July 2021)
- "Class Action Targets Wire and ACH Transfer Fees, Faults Account Disclosures," Miller Nash, *Bank Law Monitor* (July 2021)

- “More COVID Relief in Sight as Congress Amends the Paycheck Protection Program,” Miller Nash Graham & Dunn, *Bank Law Monitor* (Dec. 2020)
- “‘First Come, First Served’: SBA Issues Critical Guidance for Payroll Protection Program Loans,” Miller Nash Graham & Dunn, *Bank Law Monitor* (Apr. 2020)
- “CARES Act Expands Small Business Lending and Provides Potential Loan Forgiveness,” Miller Nash Graham & Dunn, *Bank Law Monitor* (Mar. 2020)
- “Review of Consumer Protection Law Developments (Second Edition),” American Bar Association, Antitrust Law Section (2019)
- “New Washington Act Limits Noncompetition Covenants for Employees and Independent Contractors—With a Big Poison Pill Included,” Miller Nash Graham & Dunn, *News You Can Use*, co-author (May 2019)
- “Reg CC Goes ‘Paperless’: New Amendments Address Electronic Checks, Remote Deposit Capture, and Other Modern Banking Trends,” Miller Nash Graham & Dunn, *Bank Law Monitor* (Nov. 2017)
- “Hold the Phone! The Telephone Consumer Protection Act May Regulate—and Expose You to Liability For—Routine Contact With Customers,” Miller Nash Graham & Dunn, *Bank Law Monitor* (June 2017)
- “Banks Fight Back Against ADA Website Claims,” Miller Nash Graham & Dunn, *Bank Law Monitor* (Mar. 2017)
- “Trustee’s Sale Not Subject to the Fair Debt Collection Practices Act, Appeals Court Holds,” Miller Nash Graham & Dunn, *Bank Law Monitor* (Jan. 2017)
- “Non-Payee Indorsement Triggers One-Year Limitations Period, Washington Supreme Court Holds,” Miller Nash Graham & Dunn, *Bank Law Monitor* (Nov. 2016)
- “Not All Lawyers Are Antisocial: Social Media Regulation and the First Amendment,” American Bar Association, *Journal of the Professional Lawyer* (2011)

## Presentations

- “President Biden’s Recent Executive Order on Non-Competition Agreements and the Potential Impact on U.S. Employers,” Employment Law Alliance, Employment Matters Podcast Episode 283, guest speaker (Aug. 2021)
- “Getting Up to Code and Following the New Rules: 2020 Washington Employment Law Update,” Miller Nash Graham & Dunn, Employment Law Seminar (Dec. 2020)
- “(N)o Money, Mo(re) Problems...Current Trends in Overdraft Fee and Consumer Account Class Actions,” Northwest Credit Union Association, 2020 Legal Symposium (Dec. 2020)
- “Hot Topics in Financial Services Litigation,” State Credit Union Attorneys Committee (Sept. 2020)
- “Anchors Aweigh: Washington’s Restrictive Covenants and Limitations on Employee Mobility,” Miller Nash Graham & Dunn, Employment Law Seminar (Oct. 2019)
- “How to Recover Your Attorney Fees in Court and How to Increase the Odds That You Won’t!” King County Bar Association, Civil Procedure: The Rules of the Game or Gaming the Rules CLE seminar, panelist (Mar. 2019)
- “The Game is Afoot: Local, State, Federal, Union Update, Including the Equal Pay Act and Compliance,” Miller Nash Graham & Dunn, Employment Law Seminar (Oct. 2018)
- “Interviewing and Hiring the Perfect Candidate,” Miller Nash Graham & Dunn, Employment Law Seminar (Oct. 2017)
- “Did Your Doctor Just Engage in Interstate Commerce? The Evolution of the Commerce Power and Universal Healthcare,” Judicial Institute for High School Teachers (2011)

## Recognition & Honors

- Selected for inclusion as a Washington Super Lawyer—Rising Star, 2016-present
- Elected to the Fellows of the American Bar Foundation