







# Iván Resendiz Gutierrez Associate

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 @NWLitigator

**“Clients turn to my thoughtful, thorough, and adaptive approach to cases and problems, compelling advocacy, and persuasive writing as they tackle high profile litigation and navigate knotty employment issues and intricate laws and regulations.”**

Iván (pronounced “ee-v-AA-n”) Resendiz Gutierrez is a litigation and appellate attorney on the firm’s appellate, education, and employment and labor relations practice teams. Iván is known for handling complex cases and situations, providing practical advice, and finding creative solutions for clients from such diverse industries as education, energy, and manufacturing.

Iván advises employers, including higher education institutions, on knotty employment-related issues, including discrimination, harassment, retaliation, novel coronavirus disease 2019 (COVID-19) issues, including vaccine and face covering laws and regulations and unemployment insurance benefits, and wage and hour compliance, and on preparing employment documents such as employment agreements, handbooks, and other workplace policies. Iván also regularly helps higher education institutions navigate the federal and state antitrust laws and works with them to establish safeguards to minimize the risk of antitrust scrutiny.

Iván also defends public and private employers on a wide range of employment and commercial matters before state and federal courts and administrative agencies, including appeals, breaches of contract, class actions, employment discrimination, harassment, retaliation, wrongful termination (as well as other tort claims), and ERISA litigation.

Iván is a regular speaker and author on employment law, diversity, and litigation topics. He has been recognized by national, state, and local organizations, including receiving the Hispanic National Bar Association’s “Top Lawyers Under 40” Award, the University of Oregon School of Law’s “Outstanding Young Alumni Award,” and the Oregon State Bar President’s Diversity & Inclusion Award; being named to the *Portland Business Journal’s* Forty Under 40 list in 2021, being listed in Oregon Super Lawyers—Rising Stars, and included in *Best Lawyers: Ones to Watch*.

## Education

J.D., University of Oregon School of Law, 2015

- Tax Law Concentration
- Staff Editor, *Oregon Law Review*
- James T. Landye (Trial) Scholarship

B.A., University of Oregon, psychology and political science, 2012

- Diversity Excellence Scholarship

## Bar Admissions

Oregon, 2015

## Court Admissions

U.S. Supreme Court, 2021

U.S. District Court, District of Oregon, 2016

U.S. Court of Appeals for the Ninth Circuit, 2017

## Languages

Spanish

Before joining Miller Nash, Iván clerked for the Honorable Lynn R. Nakamoto at the Supreme Court of Oregon and the Oregon Court of Appeals.

### Professional Activities

- Oregon Hispanic Bar Association
  - Past president, 2018-2019
  - Board member, 2015-2019
  - Advocacy Committee, member
  - CLE committee, member
- Oregon Minority Lawyers Association
  - Cochair, 2020-present
  - Board member, 2016-present
- Oregon State Bar
  - Appellate Practice Section - Executive Committee, member
  - Labor & Employment Section, member
  - Diversity Action Plan Auxiliary Committee, member, 2018-2020
- Legal Aid Services of Oregon (LASO) and Oregon Law Center (OLC)
  - LASO, Board of Directors, 2018-present; vice-chair, 2020-2021; president, 2021-present
  - OLC, Board of Directors, Executive Committee, member-at-large, 2020-present
- Multnomah Bar Association, member
  - Young Lawyers Section Membership Committee, member, 2016-2018
- Oregon Diversity Legal Job Fair, Steering Committee, member, 2021
- Oregon Asian Pacific American Bar Association, member
- Oregon Chapter of the National Bar Association, member
- Oregon Filipino American Lawyers Association, member
- Oregon Judicial Diversity Coalition, member
- Oregon Women Lawyers, member
- Owen M. Panner American Inn of Court, associate
- American Bar Association, member
  - Litigation Trial Practice Committee, member, 2019-present
- DRI (Defense Research Institute) - The Voice of the Defense Bar, member
- Federal Bar Association, member
  - Oregon Chapter, board of directors
  - Young Lawyers Division, member
  - Diversity & Inclusion Committee, Oregon Chapter, cochair, 2020-present
- Hispanic National Bar Association, member
  - Law Student Division, regional vice president, 2014-2015
- University of Oregon School of Law
  - Moot court coach, 2020-2021
  - Moot court coach, 2015-2016
- Willamette University College of Law, mentor

### Civic Activities

- The Freshwater Trust, Headwaters Council, member
- Hispanic Metropolitan Chamber, member

## Representative Experience

### Appellate Law

- Iván is an accomplished appellate practitioner in Oregon and federal courts. He has handled high-stakes appeals in diverse subject areas, including commercial disputes, constitutional law issues, criminal justice issues, education law issues, ERISA disputes, insurance issues, tort claims, and securities claims. His experience includes appellate motions and petitions, merits and amicus briefing, and oral argument (before the U.S. Court of Appeals for the Ninth Circuit and the Oregon Court of Appeals), petitions for writ of mandamus and petitions for review to the Oregon Supreme Court, and amicus briefs in the U.S. Supreme Court.
- Representing one of the nation's largest insurance brokerages at the district court level (after the successful removal from a state circuit court) and on appeal in a dispute regarding the enforceability of restrictive covenants. (Ongoing)
- Representing university on appeal regarding claims for breach of contract and unjust enrichment brought by a former graduate student. (Ongoing)
- Representing school district on appeal regarding claims for negligence, employment discrimination, and battery brought by current employees.
- Successfully defended university on appeal—including handling the oral argument—regarding claims for violation of Title III of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 and breach of contract and estoppel under state law brought by former graduate student.
- Successfully represented public body on appeal in a custodianship proceeding concerning the abandoned law practice of a former Oregon attorney.
- Successfully represented immigrant detainee, who fled from Venezuela during the Hugo Rafael Chávez regime, on appeal regarding the right to counsel in administrative removal proceedings under the Immigration and Nationality Act. *Victor Manuel Fonseca v. Merrick B. Garland*, U.S. Court of Appeals for the Ninth Circuit, Case No. 19-72162.
- Secured affirmance of a permanent stalking protective order under Oregon's civil stalking statute (ORS 30.866) in a case involving a respondent who initiated a series of contacts with the petitioner over several months. This was a pro bono matter taken through the Oregon Appellate Pro Bono Program. *C. Q. R. v. Wafula*, 305 Or App 344 (2020).
- Successfully defended company at the district court level (after the successful removal from a state circuit court) and on appeal—including handling the oral argument—regarding multimillion-dollar claims for failure to remit withholdings, breach of fiduciary duty, conversion, and intentional interference with economic relations brought by current and former employees. *Barr v. Ross Island Sand & Gravel Co.*, 788 F App'x 556 (9th Cir 2019).
- Secured reversal of a trial court decision denying an Oregonian's petition for the relief from the prohibition of possessing or receiving a firearm. This was a pro bono matter taken through the Oregon Appellate Pro Bono Program. *Bentley v. Multnomah County Sheriff's Office*, 297 Or App 609 (2019).
- Assisted with the appellate component of a favorable resolution of a complex \$30 million negligence lawsuit arising from a crane-rollover accident in San Diego, California.
- Assisted with the appellate component of a complex lawsuit involving a group of investors that collectively lost millions of dollars arising out of the collapse of an Oregon investment company accused of defrauding investors.
- Assisted with briefing and oral argument preparation on a major insurance coverage dispute. *Bighorn Logging Corp. v. Truck Ins. Exchange*, 295 Or App 819 (2019).

### Antitrust

- Iván understands the unique interplay between antitrust law and education law. Iván helps higher education institutions navigate the federal and state antitrust laws and works with them to establish safeguards to minimize the risk of antitrust scrutiny.

### BOLI & EEOC Investigation Responses

- Regularly defend employers (including education service districts) in connection with charges filed with the Oregon Bureau of Labor and Industries (BOLI) and the U.S. Equal Employment Opportunity Commission (EEOC).

### Civil Rights

- Researched and contributed to briefing on a class-action challenge to the constitutionality of Executive Order 13769, relating to the immigration and travel ban of individuals from predominantly Muslim countries to the United States. This was a pro-bono matter.

### Corporate Governance & Securities Litigation

- Obtained order placing cannabis company into receivership. (Ongoing)
- Successfully resolved claims against nonprofit board members accused of defamation, misappropriation of funds, and improper removal of board member.
- Represented company and directors in shareholder class action arising out of merger. *Azar v. Blount Int'l, Inc.*, No. 3:16-CV-0483-SI, 2019 WL 7372658, at \*1 (D Or Dec. 31, 2019).
- Successful defense of securities fraud, breach of fiduciary duty, and suitability claims arising from the sale of emerging market securities in bet-the-company arbitration. FINRA panel denied claimants' claims and request for compensatory damages for more than \$940,000 in their entirety.
- Represented investment advisory firm and broker in defending claims in FINRA arbitration involving variable annuities. Secured favorable settlement on the eve of arbitration hearing.

### Education

- Successfully defended university on appeal—including handling the oral argument—regarding claims for violation of Title III of the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 and breach of contract and estoppel under state law brought by former graduate student.
- Representing university regarding claims for violations of 42 U.S.C. § 1983, 42 U.S.C. § 1985 and § 1986, and Anti-Terrorism Act (ATA), 18 U.S.C. § 2331, et seq. (Ongoing)
- Successfully defended college at the district court level regarding claims for violations of the American With Disabilities Act of 1990, the Age Discrimination and Employment Act of 1967, Title VII of the Civil Rights Act of 1964, constitutional rights set forth in the 1st, 4th, 5th, and 14th amendments to the United States Constitution, and Section 504 of the 1973 Rehabilitation Act brought by a former instructor.
- Successfully defended university at the district court level and on appeal regarding claims for Title VI discrimination and Section 1983 due process violations brought by former undergraduate student.

### Employee Benefits

- Successfully defended company at the district court level (after the successful removal from a state circuit court) and on appeal regarding multimillion-dollar claims for failure to remit withholdings, breach of fiduciary duty, conversion, and intentional interference with economic relations brought by current and former employees.
- Obtained six-figure recovery on behalf of a trustee asserting accelerated withdrawal liability, interest, statutory damages, liquidated damages, and attorney's fees and costs under Employee Retirement Income Security Act of 1974, as amended by the Multiemployer Pension Plan Amendments Act of 1980.

### Investigations

- Conducted high-profile independent investigation into allegations of discrimination against leadership of nonprofit organization.

### Media & Technology

- Secured preliminary injunction and return of two domain names to company after former employee had commandeered its websites and social media accounts.

### Negligence

- Obtained summary judgment dismissing a \$25 million wrongful death action.
- Successfully resolved a negligence claim against a school district arising from an alleged student-on-student incident.

### Public/Constitutional Law Experience

- Iván understands the unique issues that public entities face. He is comfortable in the legal framework where public entities operate, including public ethics, transparency, and working with governing boards. His work includes counseling and litigation involving Oregon and federal constitutional issues such as free speech, due process, equal protection, searches and seizures, and the right to bear arms, among other things.

### Tax

- Represented an Oregon nonprofit challenging a county assessor's denial of the nonprofit's application for property tax exemption in the Oregon Tax Court.

### Publications

- "New Federal Court Decisions Pave the Way for COVID-19 Vaccine Mandates for Employers and Education Institutions," Miller Nash, *News You Can Use* (Sept. 2021)
- "Considerations for Employers Contemplating a COVID-19 Vaccine Mandate (September 2021 Update)," Miller Nash, *News You Can Use*, coauthor (Sept. 2021)
- "Living On-Campus During COVID-19: Prepare for Reasonable Accommodations Requests," *Campus Legal Advisor*, coauthor (Aug. 2021)
- "The American Rescue Plan Act—Key Takeaways for Employers," Miller Nash Graham & Dunn, *News You Can Use*, coauthor (Mar. 2021)
- "Allyship CLE Cohosted by Cascade Women Lawyers," Oregon Women Lawyers, *AdvanceSheet*, featured presentation (Jan. 2021)
- "Group Plans Oregon's First Diversity Legal Job Fair," Oregon State Bar, *Bulletin*, coauthor (Jan. 2021)
- "Considerations for Employers Contemplating a COVID-19 Vaccine Mandate," Miller Nash Graham & Dunn, *News You Can Use*, coauthor (Dec. 2020)
- "Caution—Think Twice Before You Settle Your Appeal!" DRI, Appellate Advocacy Committee newsletter, *Certworthy* (Nov. 2020)
- "(Remote) Class is Now in Session: Consider Antitrust Issues in Higher Education," *Campus Legal Advisor* (Oct. 2020)
- "What Employers Need to Know About the Impact of the August 8, 2020, Presidential Memorandum on Unemployment Insurance Benefits," Miller Nash Graham & Dunn, *News You Can Use* (Aug. 2020)
- "Chapter 2: Reading, Understanding, and Interpreting Insurance Policies," Oregon State Bar BarBooks™, *Insurance Law in Oregon 2020 Edition* (May 2020)
- "Recent Wave of 403(b) Litigation Offers Insight for Educational Institutions and Fiduciaries," *Campus Legal Advisor* (May 2020)

- “A Whole New Employment Reality, Considerations, and Challenges: Leave and Remote-Worker Supervision and Morale,” Miller Nash Graham & Dunn, *K-12 Education: News You Can Use*, coauthor (Apr. 2020)
- “Employers Should Know How CARES Act Impacts Unemployment Benefits,” Miller Nash Graham & Dunn, *News You Can Use*, coauthor (Apr. 2020)
- “Unemployment Insurance Benefits During COVID-19 Outbreak,” Miller Nash Graham & Dunn, *News You Can Use*, coauthor (Mar. 2020)
- “Recording Devices in Public Schools: Commonly Asked Questions,” Miller Nash Graham & Dunn, *K-12 Education: News You Can Use* (Nov. 2019)
- “The Business Judgment Rule: A Shield and Sword,” American Bar Association, Litigation Section, *Business Torts & Unfair Competition Committee* (Summer 2019)
- “Ninth Circuit Says IP Address is Not Enough for Copyright Infringement: *Cobbler Nevada LLC v. Gonzales*,” Oregon Chapter of the Federal Bar Association Newsletter, Volume XXII, No. 3 (Winter 2018)
- “Christian Louboutin Claims Victory in EU Court Trademark Battle Over Its Iconic Red-Soled Shoes,” Miller Nash Graham & Dunn, **IP Law Trends** (June 2018)
- “Federal Circuit Strikes Down the Lanham Act’s Ban on Scandalous and Immoral Marks in the Wake of *Tam*,” Miller Nash Graham & Dunn, *IP Law Trends* (Dec. 2017)
- “USPTO Switches Gears on Registration of Disparaging Marks, but Not on Scandalous Marks,” Miller Nash Graham & Dunn, *IP Law Trends* (June 2017)
- “Portland Band The Slants Singing a Happy Tune After the Supreme Court Unanimously Holds That the Disparagement Clause Violates the First Amendment,” Miller Nash Graham & Dunn, *IP Law Trends* (June 2017)
- “Tips and Tricks for Challenging Online Service Providers That Host Infringing Material,” American Intellectual Property Law Association, coauthor (May 2017)
- “2016 Broker-Dealer Litigation Survey,” American Bar Association, contributor (Feb. 2017)
- “The Supremes Hear Oral Argument in Portland Band The Slants’ Trademark Case,” Miller Nash Graham & Dunn, *IP Law Trends* (Jan. 2017)
- “The Supremes Unanimously Limit the Galactic Design-Patent-Infringement Damages Award in One of the *Apple v. Samsung Design-Patent Wars*,” Miller Nash Graham & Dunn, *IP Law Trends* (Dec. 2016)
- “Federal Circuit Serves a Slice of Victory to Apple and Domino’s Pizza,” Miller Nash Graham & Dunn, *IP Law Trends* (Dec. 2016)
- “Christian Faith Fellowship Church is Going 12 Rounds with adidas AG in David-versus-Goliath Trademark Battle,” Miller Nash Graham & Dunn, *IP Law Trends* (Nov. 2016)

## Presentations

- “You Are Now One of Many,” Oregon State Bar, Opportunities for Law in Oregon, 2021 Orientation (Aug. 2021)
- “The Good, the Bad, and the Ugly: 11th Annual Review of Recent Oregon Public Sector Labor Cases,” Oregon Public Employer Labor Relations Association, webinar (June 2021)
- “Mask Mandates & Safety in the Workplace—What You Need to Know as We Reopen,” The Nonprofit Association of Oregon (June 2021)
- “Building an Appellate Practice and a Diverse Appellate Bar,” Oregon State Bar, Appellate Practice Section CLE, moderator (Apr. 2021)
- “What Employers Need to Know about COVID-19 Vaccination Requirements,” Better Business Bureau, Great West + Pacific region (Mar. 2021)
- “What Nonprofit Employers Need To Know About COVID-19 Vaccination Requirements,” Nonprofit Association of Oregon (Feb. 2021)
- “Private Practice and the Business of Law,” University of Oregon School of Law, presentation to 1L class, panelist (Feb. 2021)

- “Oregon Diversity Legal Job Fair,” Oregon Diversity Legal Job Fair, promotional video (Jan. 2021)
- “Measure Twice, Cut Once: Blueprint for Constructive Diversity, Equity, and Inclusion Initiatives,” Miller Nash Graham & Dunn, Employment Law Seminar (Dec. 2020)
- “Recognizing Design Possibilities and Challenges: Equity Issues in the Remote Environment,” Miller Nash Graham & Dunn, Employment Law Seminar (Dec. 2020)
- “Siting the Foundation: Remote Workers in Different States,” Miller Nash Graham & Dunn, Employment Law Seminar (Dec. 2020)
- “What Is the Latinx Vote?” Voting Now: Turning Rights into Reality, podcast, interviewer (Dec. 2020)
- “Cascade Women Lawyers: Allyship, Diversity, & Attorney Retention,” cohosted with Deschutes County Bar Association, CLE, webinar (Nov. 2020)
- “Legislative Impacts/Updates: A Panel Review,” Oregon Public Employer Labor Relations Association, Annual Training Conference, panelist (Nov. 2020)
- “Why Representation Matters: Albert Lee,” Voting Now: Turning Rights into Reality, podcast (Nov. 2020)
- “Bar Leader Room 1: Appeals, Bankruptcy, Business Transaction, Consumer Law, Criminal Law, Employment Law, Estate Planning,” Oregon State Bar PLF, Learning the Ropes 2020, virtual conference, networking breakout room (Oct. 2020)
- “Addressing Harassment in Light of the Oregon Workplace Fairness Act and Commitments to Racial Justice,” Oregon School Personnel Association, 2020 Virtual Fall Summit (Oct. 2020)
- “Case Law Update,” Oregon State Bar, Labor and Employment Law Section, Annual Conference (Oct. 2020)
- “A Guide on How You Can Support Marginalized Communities (How to Be An Ally),” King County Bar Association, Business Law Section (Oct. 2020)
- “Networking in a Pandemic,” South Asian Bar Association (SABA) of Oregon, Oregon Law Student Zoom Check-In (Sep. 2020)
- “Oregon Hispanic Bar Association: Law Practice Outside of Portland, Salem, and Eugene,” Oregon Law Student Zoom Check-Ins, moderator (Aug. 2020)
- “Orientation on Professionalism for First-Year Students,” University of Oregon School of Law Orientation (Aug. 2020)
- “Affinity Group Introduction—Oregon Minority Lawyers Association,” Oregon State Bar, Opportunities for Law in Oregon, 2020 Orientation (Aug. 2020)
- “A Guide on How You Can Support Marginalized Communities (How to Be An Ally),” SAIF Quarterly CLE (Aug. 2020)
- “Addressing Harassment in Light of the Oregon Workplace Fairness Act and Commitments to Racial Justice,” NW EEO/Affirmative Action Association, webinar (July 2020)
- “Immerse 2020—A Benefit for The Freshwater Trust,” The Freshwater Trust, emcee (Mar. 2020)
- “State & Federal Judicial Clerkships,” Oregon State Bar, 23rd Annual OLIO Employment Retreat (Jan. 2020)
- “Raising the Nautical Flag and Avoiding Rough Waters: Identifying and Managing HR Risks,” Miller Nash Graham & Dunn, Employment Law Seminar (Oct. 2019)
- “Breakfast Briefing: Paid Family Leave Law,” Oregon State Bar Labor and Employment Section, CLE (Sept. 2019)
- “Orientation Convocation Ceremony,” University of Oregon School of Law (Aug. 2019)
- “The Logistics of Reading and Interpreting Insurance Policies,” Multnomah Bar Association (Apr. 2019)
- “Applying the Rules of Evidence: What Every Attorney Needs to Know,” National Business Institute (Dec. 2018)
- “Practicing Professionalism,” Lewis & Clark Law School Student Bar Association (Feb. 2018)
- “The Road from Summer Job to Long Term Career,” Oregon State Bar Opportunities for Law in Oregon, Employment Retreat (Jan. 2018)
- “Road to the Bench - An Evening with Our Distinguished Judges,” Oregon Hispanic Bar Association, “Evening With” Series, moderator (Oct. 2017)

- “Lawyer Support Services Panel,” Oregon State Bar Opportunities for Law in Oregon, 2017 Orientation, panelist (Aug. 2017)
- “Importance of Networking,” Oregon State Bar Opportunities for Law in Oregon, 2017 Orientation (Aug. 2017)

### Recognition & Honors

- Named to *Portland Business Journal's* Forty Under 40 list, 2021
- Received the “Outstanding Young Alumni Award” from the University of Oregon School of Law, 2020
- Selected for inclusion in *Best Lawyers: Ones to Watch* in Appellate Practice, Commercial Litigation, Education Law, and Labor and Employment Law—Management, 2021
- Received a “Top Lawyers Under 40 Award” from the Hispanic National Bar Association, 2019
- Selected for inclusion as an Oregon Super Lawyer—Rising Star, 2018-present
- Received the Oregon State Bar Appellate Practice Section’s Certificate of Appreciation for service as a volunteer in the Oregon Appellate Pro Bono Program, 2018
- Honored with the Oregon State Bar President’s Diversity & Inclusion Award, 2017
- Recognized as an “Outstanding Mentor,” Willamette University College of Law, 2016-2017
- Received Miller Nash Graham & Dunn’s Clifford N. Carlsen Jr. Award for Outstanding Pro Bono Achievement, 2016

### Personal Activities

A former rugby player, Iván enjoys boxing, kayaking, running marathons, traveling, and all types of films and music. Iván is active in the Portland community and currently serves as a member of the Headwaters Council of the Freshwater Trust.