



# K. Michael Fandel

 Partner

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**“I specialize in handling complex commercial litigation and real estate law for local and international clients. I have spent my entire career with Miller Nash because the collaborative environment allows me to provide my clients with attentive service and broad capabilities, regardless of the size of their business, transaction, or dispute.”**

Mike Fandel is a commercial litigator whose practice focuses on complex business, and international litigation, including contract disputes, real estate, product and premises liability, trade secret and licensing litigation, cross-border disputes, and insurance recovery. He also has extensive experience in franchise and distribution, eminent domain, and class action litigation.

Mike has successfully represented petroleum product manufacturers, real estate brokers and agents, developers, management companies, franchisors, policyholders, software developers, patent licensors, seafood processors, and other companies and individuals before state and federal courts and in arbitrations throughout the Western United States and internationally. His achievements include jury trial defense verdicts in a multi-million dollar product and premises liability class action, a multi-family toxic exposure lawsuit, and numerous residential real estate non-disclosure actions, as well as successful prosecution of a licensing royalties claim before an International Chamber of Commerce arbitral tribunal in Tokyo, Japan. Mike has been a speaker and panelist on litigation topics relating to the real estate, product liability, petroleum industries, as well as legal ethics. Mike has been selected as a Washington Super Lawyer more than a dozen times, including as a Top 100 Washington Super Lawyer since 2018.

Mike serves as the firm’s general counsel and is partner-in-charge of Miller Nash’s Seattle, Washington office.

## Professional Activities

- King County Bar Association, member
- King County Bar Foundation, board of trustees
- Washington State Bar Association, member

## Education

J.D., University of Puget Sound School of Law, *cum laude*, 1986

B.A., University of Puget Sound, 1983

## Bar Admissions

Washington, 1986  
Oregon, 2004

## Court Admissions

U.S. Court of Appeals for the Ninth Circuit

U.S. District Court, Western District of Washington

U.S. District Court, Eastern District of Washington

U.S. District Court, District of Oregon

- Oregon State Bar, member
- American Bar Association
  - Tort and Insurance Practice Section
  - Insurance Coverage Committee
- International Bar Association, member
  - Litigation Committee

## Representative Experience

### Insurance Recovery

- Represented local port district in negotiating resolution defense and indemnity claims against client's primary insurer, arising out of multi-site environmental cleanups, resulting in an eight-figure settlement without ever commencing litigation.
- Represented the successor to a mining company in Idaho in a lawsuit to recover insurance benefits relating to the investigation of contamination at a former mining site. A federal court ruled in favor of our client on summary judgment, finding the insurer jointly and severally liable for all defense costs incurred from the date of first notice of claim.

### Business Litigation

- Represented sellers of aerospace manufacturing company in post-acquisition dispute about value of company's inventory. Lead counsel in arbitration hearing, after which the arbitrator found in our clients' favor and dismissed buyer's \$5 million claim for damages with prejudice.
- Represented executive in a high-profile lawsuit brought by former employer, asserting claims that our client misappropriated trade secrets, violated fiduciary duties, and breached contractual obligations.
- Represented real estate brokerage in defending a False Claims Act suit brought by an purported whistleblower. Obtained dismissal of the claim on the basis that the court lacked subject matter jurisdiction because plaintiffs were not the original source of the information on which the claim was based.

### Product Liability Litigation

- Tried to defense verdict before a jury a class action suit against petroleum manufacturer in a product liability action alleging that defective home heating fuel caused accelerated corrosion in more than 12,000 fuel storage tanks.

### Real Estate & Condemnation Litigation

- Represented real estate agents and brokers in numerous lawsuits, and before administrative agencies, arising out of residential real estate transactions. Obtained defense judgment on all claims in multi-week bench trial alleging misrepresentation on the part of real estate agent and seller relating to the purchase of a Pierce County home.
- Represented condemnee owner of shipyard being condemned by the State Ferry System in jury trial resulting in \$4.1 million verdict in favor of our client.
- Represented local transit authority in successfully opposing motion by local arts organization to compel transit authority to pay the cost to acquire replacement facilities, rather than fair market value, in condemnation of property occupied by the arts organization.

### Premises Liability

- Represented property owners and manufacturers in dozens of injury and wrongful death actions arising at industrial facilities, including injuries caused by alleged defects in premises and claims arising out of alleged exposure to asbestos and other toxins.

- Tried to defense verdict before a jury a multi-party injury lawsuit alleging personal injuries arising from exposure to byproducts of defective fuel oil.
- Represented petroleum refinery in a suit brought by the employee of a subcontractor who was injured when he fell from his truck while loading at a refinery site. The court agreed that our client owed no duty to the plaintiff because he was the employee of a contractor whose work was not controlled by our client, and dismissed all claims. The dismissal was affirmed on appeal.

#### Pro Bono/Low Bono

- Represented individual critically injured when car driven by his co-worker crashed while returning from a jobsite, in appeal of trial court's dismissal of his lawsuit against the driver. The Court of Appeals reversed the trial court, finding that there was a material question whether the driver was acting in the course of his employment at the time of the crash. The case was remanded, resulting in a favorable settlement for the client.

#### Publications

- "Young Litigators Forum Session Report," International Bar Association Legal Practice Division, *International Litigation News* (Sept. 2017)
- "In Extraordinary Ruling, Washington Supreme Court Applies 'Efficient Proximate Cause' Rule to Liability Coverage Dispute," Miller Nash Graham & Dunn, *The Northwest Policyholder* (May 2017)
- "Washington Court Limits Coverage by Estoppel When Insured's Assets Are Not at Risk," Miller Nash Graham & Dunn, *The Northwest Policyholder* (Dec. 2016)
- "If You Purchase Contaminated Property, Is It Covered?" Miller Nash Graham & Dunn, *The Northwest Policyholder* (Aug. 2016)
- "Washington Federal Court Goes Where None Have Gone Before on Excess Carrier Bad Faith," Miller Nash Graham & Dunn, *The Northwest Policyholder* (Feb. 2016)
- "Additional Insured Endorsements May Not Provide the Protection Intended," Graham & Dunn (June 2011)
- "Washington Limits the Immunity of Architect and Engineers against Construction Safety Claims," Graham & Dunn (June 2011)
- "United States Supreme Court Reverses Arthur Andersen Conviction," Graham & Dunn (June 2005)

#### Presentations

- "Ethics for In-House Counsel" (2013-present)
- "The U.S. Legal System," International Bar Association, Annual Litigation Forum Conference Young Litigators Seminar (May 2017)

#### Recognition & Honors

- Selected for inclusion in *The Best Lawyers in America*® in Commercial Litigation, 2020-present
- Named a "Washington Litigation Star" by *Benchmark Litigation*, 2018-present
- Selected for inclusion as a Washington Super Lawyer, 2000-2003, 2013-present
  - Top 100 Washington Super Lawyers, 2018-present
- Selected to Top Lawyers in Commercial Litigation, *Seattle Metropolitan Magazine*, 2010
- Rated A-V® Preeminent™ by Martindale-Hubbell®