

## Tim J. Filer

Principal

1111 Third Avenue  
Suite 3000  
Seattle, WA 98101

T 206.447.2904  
F 206.749.1939  
tim.filer@foster.com



Tim has a broad commercial litigation practice and focuses on class action defense, intellectual property disputes and complex litigation. He has more than 30 years of experience prosecuting and defending actions in state and federal courts in addition to administrative hearings, regulatory enforcement proceedings and arbitrations.

A significant portion of Tim's practice is dedicated to defending financial institutions and other companies in consumer protection, employment and other class actions. He has extensive experience in complex securities class action cases defending officers, companies and directors. In the area of intellectual property, Tim has substantial experience in disputes involving trademark, trade secret and copyright infringement.

Tim also serves in leadership position within the firm, including as co-chair of the Litigation Group, co-chair of the Professional Development Committee and as a member of the firm's Executive Committee.

He is consistently recognized by his peers in industry publications such as *The Best Lawyers in America*® for his work in commercial litigation, as well as banking and finance, intellectual property and securities litigation.

### Services

- Litigation
- Airports
- Antitrust & Consumer Protection
- Appellate
- Class Action Litigation
- Financial Services
- Intellectual Property Litigation
- Labor & Employment Litigation
- Privacy, Cybersecurity & Data Protection
- Sports, Arts & Entertainment

### Admissions

- Washington, 1986
- U.S. District Court, Eastern District of Washington, 1988
- U.S. District Court, Western District of Washington, 1988
- U.S. Court of Appeals, 9th Circuit, 1997
- U.S. Court of Appeals, 10th Circuit, 2017
- U.S. Supreme Court, 1996

## Education

J.D., University of Washington School of Law (with honors), 1986

B.A., Washington State University (*summa cum laude*), 1983

## Clerkships

U.S. District Court for the Western District of Washington, the Hon. Donald S. Voorhees and the Hon. William L. Dwyer, Law Clerk, 1986-1988

## Honors & Recognition

*The Best Lawyers in America*®

- Commercial Litigation, 2011-present
- Litigation - Banking & Finance, 2012-present
- Litigation - Intellectual Property, 2012-present
- Securities, 2012-present

Washington Super Lawyers list, 2023; 2002-2020

Best in the Business: Leading Lawyers in the Puget Sound Region,  
*Seattle Business* magazine

- Commercial Litigation, 2011-2013
- Litigation: Banking and Finance, 2011-2013
- Litigation: Intellectual Property, 2011-2013
- Litigation: Regulatory Enforcement, 2013

2010 Top Lawyer, *Seattle Metropolitan* magazine

Nominated Fellow of the American Bar Foundation, 2014

Order of the Coif

Survey Editor, *Washington Law Review*, 1985-1986

Phi Beta Kappa

Martindale-Hubbell AV Preeminent rating

## Professional Activities

ACI-NA/American Association of Airport Executives (“AAAE”) Noise Conference Planning Committee, 2022-present

Airports Council International - North America, Legal Affairs Committee, Member

Airports Council International – North America (“ACI-NA”) Legal Committee Steering Group, 2023-present

American Bar Association, Litigation Section, Member

Washington State Bar Association, Litigation Section, Member

## Community Activities

Camp Fire Boys & Girls

- Central Puget Sound Council, Board Member, 1994-2000
- Special Programs Committee, 1990-1994
- North Branch Advisory Board, Chair, 1994-1996

Eastside Legal Assistance Program & Volunteer 2018-present

St. Joseph's Church Pastoral Council, 2005-2008

Wellspring Family Services (formerly Family Services of King County)

- "Table Captain of the Year" Award, 2013

## Experience

### Consumer Class Action

Telephone Consumer Protection Act Class Action

Representation of financial institution in class action alleging TCPA violations from autodialed calls to customers' cell phones; case dismissed without class certification

Sando v. HomeStreet Bank

Defense of mortgage lender in putative nationwide class actions alleging improper changing of reconveyance, recording and fax fees to borrowers; case dismissed with prejudice on summary judgment

Cottam v. Northwest Restaurants

Representation of franchisee in wage and hour class action alleging violations of meal, rest break and overtime regulations

Artificial Salmon Coloring Litigation

Defense of nationwide class action brought against grocer alleging consumer deception through failure to label farmed salmon as "color added;" motion to dismiss granted and case dismissed with prejudice

McCulloch v. Great Western Bank

Representation of lender in putative nationwide consumer borrower class action under Real Estate Settlement Procedures; case dismissed without a class being certified

**Retailer Rebate Litigation**

Representation of retailer in putative nationwide consumer class action arising from alleged failure to disclose expiration dates of manufacturers' rebates; case resolved without discovery

**Campbell v. Boeing Employees Credit Union**

Representation of one of the country's biggest credit unions on claims that it was improperly charging certain fees to members in connection with loan payoffs

**Stark v. Seattle Seahawks**

Representation of team and affiliate on claim that pre-game "pat downs" of fans were unconstitutional searches; case dismissed on summary judgment

**Mortimore v. FDIC, et. al.**

Nationwide consumer borrower class action against loan servicer involving rate adjustments on FHA adjustable rate mortgages; case dismissed with prejudice on summary judgment

**Microtek Consumer Protection Litigation**

Defense of computer equipment manufacturer in putative nationwide consumer class action; all claims dismissed with prejudice

**Irvin v. Aames Financial Corporation**

Putative class action against consumer lender involving prepayment charges on defaulted loans; class action defeated on motion to dismiss

**Securities**

**Bearse v. Port of Seattle**

Representation of municipal airport operator in class action seeking damages and injunctive relief based on alleged inverse condemnation, nuisance and trespass caused by airport noise

**In re Charter Communications Inc. Securities Litigation**

Defense of board chairman and controlling shareholder in securities class action; case settled while motions to dismiss were pending

**Herzog v. Foster & Marshall, Inc. 56 Wn. App. 437, 783 P.2d 1124 (1989)**

Enforcement of arbitration clauses in securities class action on behalf of Shearson

**FutureSelect Portfolio Mgmt Inc. v. Tremont Group Holdings**

Representation of hedge fund manager on claims arising from Madoff investments; case dismissed with prejudice on pleading motion

**Infospace Shareholder Derivative Litigation**

Defense of former president of corporation on breach of fiduciary duty claims

**Pyramid Breweries Inc. Securities Litigation**

Defense of multiple class actions arising out of an initial public offering; all cases dismissed without discovery, including the first Post-Reform Act dismissal with prejudice; affirmed by the Ninth Circuit Court of Appeals, 143 F.3d 1293 (1998)

**PathoGenesis Corp. Securities Litigation**

Representation of a manufacturer of an aerosolized antibiotic for cystic fibrosis patients and its officers/directors in defense of federal class action claims; consolidated class actions dismissed with prejudice; dismissal affirmed by the Ninth Circuit Court of Appeals, 284 F. 3d 1027 (9th Cir. 2002)

**Midcom Communications Inc. Securities Litigation**

Representation of company and officers/directors in the first Post-Reform Act securities class action in Washington

**CityBank Shareholder Derivative Litigation**

Defense of bank's officer in action alleging breach of fiduciary duty; case dismissed with prejudice on pleading motion

**Hudson v. Conversion Industries, Inc.**

Defense of federal securities class action claims on behalf of company and officers; claims against clients dismissed

**GST Telecommunications Securities Litigation**

Defense of former directors, CEO and CFO in securities class actions; case dismissed with prejudice at pleading stage

**Mercer International Securities Litigation**

Defense of company, officers and directors in securities class action under federal and state law

**Cellular Technical Services Co. Inc. Securities Litigation**

Representation of company and officers/directors in defense of federal securities class action claims

**Municipal Litigation**

**Lake Forest Park Wage and Hour Litigation**

Defense of wage and hour action on behalf of police dispatchers and officers alleging "off the clock" overtime and rest break violations and improper use of comp time in lieu of overtime pay

## Intellectual Property

Seattle Seahawks v. Texas A&M University  
Trademark infringement and dilution dispute

Asymetrix v. Paris  
Prosecution of copyright and trade secret claims against former employee and seizure of improperly removed software

Alaska Airlines v. Air Alaska  
Representation of airlines in a multiple forum trademark infringement dispute

Hops Grill v. Hart Brewing  
Trademark infringement claims over use of HOPS as ticker symbol

## News

57 Foster Garvey Attorneys Recognized Among the 2024 Best Lawyers in America; Two Portland Attorneys Named 'Lawyer of the Year'  
*Foster Garvey Newsroom*, 8.17.23

13 Attorneys Recognized on 2023 Washington Super Lawyers Lists  
*Foster Garvey Newsroom*, 7.31.23

45 Foster Garvey Attorneys Recognized Among *The Best Lawyers In America*®  
*Foster Garvey Newsroom*, 8.18.22

38 Attorneys Named 2022 Best Lawyers in America; 11 Named Best Lawyers: Ones to Watch  
*Foster Garvey Newsroom*, 8.19.21

43 Attorneys Named 2021 *Best Lawyers in America*; 10 Named Best Lawyers: Ones to Watch  
*Foster Garvey Newsroom*, 8.20.20

11 Attorneys Named Washington Super Lawyers and Five Named Rising Stars  
*Foster Garvey Newsroom*, 7.16.20

50 Foster Garvey Attorneys Named 2020 *Best Lawyers in America*  
*Foster Garvey Newsroom*, 8.15.19

32 Attorneys Named Super Lawyers and Eight Named Rising Stars  
*Foster Garvey Newsroom*, 6.10.19

## Speaking Engagements

"Avigation Easement Litigation," Airports Council International - North America Legal Affairs Conference  
Speaking Engagement  
5.24

"Coping with Fast-Developing Protests/Demonstrations," Airports Council International - North America (ACI-NA) 2017 Legal Affairs Conference  
Speaking Engagement  
Amelia Island, FL, 5.5.17

## Legal Alerts

Court Enforces Avigation Easements, Dismisses Claims Based on Flights on Third Runway at Seattle-Tacoma International Airport  
*Foster Garvey Newsroom*, 3.5.13

Court Denies Certification of Alleged Takings Class Action Based on Noise from Third Runway at Seattle-Tacoma International Airport  
*Foster Garvey Newsroom*, 6.7.12