

Philip M. Guess

Partner

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OVERVIEW

Phil Guess focuses his litigation practice on complex business disputes and has particular experience representing clients in the financial services, energy, and technology industries. He served on the firmwide management committee and as the managing partner of the Seattle office.

Phil is currently listed in *Chambers USA* as one of the top lawyers in Washington for general commercial litigation and litigated cases involving fraud, securities, contractual breaches, employee mobility issues (i.e., trade secret and noncompetes), breaches of fiduciary duty, and consumer protection violations, among other issues. He is an experienced trial lawyer, having tried multiple arbitrations and cases in both state and federal courts.

Phil is particularly experienced in cases involving corporate and transactional litigation, including disputes regarding corporate transactions, securities, dissenter's rights, valuation, and corporate governance issues. For clients engaged in energy-related industries, Phil offers particular experience with allegations surrounding supply contract breaches, employee mobility, and valuation issues.

Phil has represented financial services clients in a number of high stakes cases. For example, he represented and advised numerous clients regarding *Bernard Madoff and Bernard L. Madoff Securities, LLC*. Likewise, Phil represented the Trustee in In *Re: Consolidated Meridian Funds*, which involved a US$220 million real estate scheme, the largest fraud of its kind in the Pacific Northwest. He also represented the Bayou Unofficial Creditors' Committee and Bayou Official Creditors' Committee, In *re Bayou Hedge Fund Litigation*, assisting institutional investors in the Bayou family of hedge funds to recover in excess of US$75 million in what was, at the time, the largest Ponzi scheme in United States history.

Phil is licensed to practice in Washington, Oregon, and California courts as well as all federal Courts in those jurisdictions. He also regularly arbitrates disputes throughout the United States.

ACHIEVEMENTS

- Recognized by *Chambers USA* for Litigation: General Commercial in Washington, 2014-2026
- Listed in *The Best Lawyers in America*® for Commercial Litigation in Seattle, 2019-2025
- Selected to Washington Super Lawyers list, 2007-2023

- Selected to Best Lawyers Commercial Litigation, 2019-2022
- Peer Review Rated AV in *Martindale-Hubbell*, 2021
- Selected to Washington Rising Stars list, 2004-2006

PROFESSIONAL / CIVIC ACTIVITIES

- Board Member, Seattle Aquarium
- Former Member of Executive Committee, Former Chair of Governance and Nominations Committee, Seattle Aquarium
- Former Adjunct Professor of Law, Seattle University, Securities Law
- Former Board Member, Washington Community Alliance for Self Help

SPEAKING ENGAGEMENTS

- Alternative Dispute Resolution in M&A disputes, Presentation to ABA Annual Business Law Conference, 28 April 2023

EDUCATION

- J.D., University of Virginia School of Law, 1993 *(Articles Editor Virginia Journal of International Law)*
- B.A., University of California, Berkeley, 1988 *(with high distinction in general scholarship)*
- B.S., University of California, Berkeley, 1988 *(with high honors)*

ADMISSIONS

- Bar of California
- Bar of Oregon
- Bar of Washington
- United States Court of Appeals for the Ninth Circuit
- United States District Court for the Central District of California
- United States District Court for the District of Oregon
- United States District Court for the Eastern District of Washington
- United States District Court for the Northern District of California
- United States District Court for the Southern District of California

- United States District Court for the Western District of Washington

THOUGHT LEADERSHIP *POWERED BY HUB*

- June 2026, ESG and the Sustainable Economy Handbook
- 18 March 2026, Private Lending: Unfolding Litigation Developments and Managing Risks
- 31 October 2022, Litigation Minute: Choice of Law and Forum Clauses in Deal Work
- 18 November 2021, Litigation Minute: Subpoenas and the Stored Communications Act
- 15 December 2020, Litigation Minute: Thinking Ahead to Avoid Headaches Later: Contractual Dispute Resolution Provisions
- 29 July 2020, Investor Landmines in a Work-Out World: What Fiduciaries Need to Know
- 21 May 2020, COVID-19: A Virtual Discussion on Litigating Force Majeure
- 21 April 2020, COVID-19: Force Majeure Checklist for the GC's Office

NEWS & EVENTS

- 4 June 2026, K&L Gates Receives Nearly 235 Firm, Individual Rankings in 2026 *Chambers USA* Guide
- 5 June 2025, K&L Gates Receives More Than 240 Firm, Individual Rankings in 2025 *Chambers USA* Guide
- 16 December 2024, K&L Gates Secures US$10.5 Million Jury Verdict for Innovative Solutions
- 7 November 2024 - 10 November 2024, 2024 NAPABA Convention, Hosted by National Asian Pacific American Bar Association
- 6 June 2024, K&L Gates Receives More Than 200 Firm, Individual Rankings in 2024 *Chambers USA* Guide
- 1 June 2023, K&L Gates Receives Firm, Individual Rankings in 2023 *Chambers USA* Guide
- 18 August 2022, More Than 350 K&L Gates Lawyers Named Among 2023 Best Lawyers in America, Ones to Watch
- 1 June 2022, K&L Gates Receives Firm, Individual Rankings in 2022 *Chambers USA* Guide
- 19 August 2021, Nearly 300 K&L Gates Lawyers Named Among 2022 Best Lawyers in America, Ones to Watch
- 21 May 2021, K&L Gates Litigation and Dispute Resolution Practice, Lawyers Recognized in 2021 Chambers USA Guide
- 23 April 2020, K&L Gates, Lawyers Recognized in 2020 Chambers USA Guide
- 26 April 2019, Chambers USA 2019 Guide Ranks K&L Gates, Lawyers Among Leaders

- 23 June 2016, K&L Gates, Lawyers Recognized as Leaders in Chambers USA 2016 Guide
- 20 May 2015, Chambers USA 2015 Guide Recognizes K&L Gates, Lawyers as Industry Leaders

OTHER MEDIA MENTIONS

- "K&L Gates Secures $10.5M Verdict for Washington Meat Retailer in Lawsuit Over 'Boneless' Chicken Product," *National Law Journal*, 13 December 2024
- "Law360's Legal Lions Of The Week," *Law360*, 13 December 2024
- "Pilgrim's Can't Butcher Meat Co.'s Trader Joe's Burger Suit," *Law360,* 19 October 2022
- "The growing spotlight on ESG: environment, social and governance," *Portland Business Journal*, 22 August 2022
- Quote, "E-Discovery May Need Help For Next Potential Wave Of Fraud," *Law360*, 3 May 2022
- Quote, "The Gathering Storm," *Oregon Business* magazine, September 2020

AREAS OF FOCUS

- Commercial Disputes
- IP Litigation

INDUSTRIES

- Energy
- Financial Services
- Private Credit
- Technology

REPRESENTATIVE EXPERIENCE

Securities and Fraud Litigation

- Represented publicly traded renewable energy company in defense of various claims, including alleged racketeering, breach of fiduciary duty, conversion. Secured stay of case pending resolution of clients' actions in foreign country.
- Secured summary judgment for publicly traded renewable energy company with respect to founder's termination and claims of equity ownership Monfort v. ADOMANI, Inc., 18-CV-05211-LHK, 2019 WL 6311378 (N.D. Cal. Nov. 25, 2019); see also 2019 WL 131842 (N.D. Cal. Jan. 8, 2019).

- Represented entrepreneur before the US Court of Appeals for the Ninth Circuit, obtaining dismissal of securities fraud claim. 748 F. App'x 732 (9th Cir. 2018).
- Represented individual/fund in defense of US$10 million lawsuit seeking compensation for alleged investment advice. Case summarily dismissed. Case No. 4:15-CV-40082-TSH, 2015 WL 5822629 (D. Mass. Oct. 1 2015).
- Represented liquidating trustee for the Meridian real estate funds in resolution of a US$220 million fraudulent scheme, the largest fraud of its kind in the Pacific Northwest. In Re: Consolidated Meridian Funds, et al., 487 B.R. 263 (W.D. Wash. 2013).
- Represent defrauded institutional investors in In Re Bayou Group, LLC in Southern District of New York bankruptcy court. Institutional investors ultimately recovered monies and judgments in excess of US$75 million. 363 B.R. 674 (S.D.N.Y. 2007).
- Represented global pesticides company and its subsidiary in Florida District Court in dispute with subsidiary's founder and former executive alleging securities fraud, fraud, breach of fiduciary duty, and breach of contract.
- Represent Northwest and California-based investment funds with respect to investor losses in the investments in the Bernard L. Madoff Ponzi Scheme in California state litigation.
- Represented a city retirement system with respect to fraudulent acts of broker-dealer managing assets.
- Represented publicly traded renewable energy company in Riverside Superior Court in '33 Act case asserting material omissions in disclosures related to initial public offering.
- Represented medical diagnostic laboratory in derivative case pending in San Jose Superior Court.
- Represented an investment fund in investigations before the Washington Department of Financial Institutions pertaining to management fees.
- Represented large state employees' pension fund in dispute with investment fund and former founder pertaining to founders' recent criminal plea related to bribery scandal.
- Represented former Chief Financial Officer of San Diego, California-based technology company in company investigation and associated derivative action.
- Represented a publicly traded renewable energy company with respect to informal or formal investigations by the Securities & Exchange Commission into potential employee insider trading.
- Represented an East Coast-based investment fund in bankruptcy proceedings before the US District Court for the Southern District of New York.
- Represented mineral company in class and derivative actions in Idaho federal court.
- Represented warehouse lending company in fraudulent conveyance action against former retail lender in King County Superior Court. Obtained multimillion-dollar summary judgment award.

Merger/Acquisitions and Valuation Litigation

- Represented seller of workplace safety equipment company in dispute related to application of Generally Accepted Accounting Principles affecting earn out payment.
- Represented seller of maritime services company in dispute related to application of Generally Accepted Accounting Principles affecting earn out payment.
- Represented a minority shareholder in a global public relations and media company in a valuation/breach of fiduciary duty dispute.
- Represented investment fund in dispute over buyout of co-founder and alleged breaches of fiduciary duty.
- Represented large resource company in valuation dispute regarding natural gas field.
- Represented consulting firm in valuation case involving departing partner.
- Represented educational services company in dispute regarding claims associated with post-transaction claims against escrow.

Other Business Litigation

- Represent large food processor in dispute with national chicken producer regarding the supply of chicken products adulterated with bones. Secured US$10.5 million jury verdict as well as US$13.6 million judgment (total recovery US$16.6 million). Case No. C22:22-CV-0296 (Dkt. 392, W.D. Wash., May 8, 2025).
- Represented several large financial institutions in series of cases involving allegations of wrongful foreclosure and/or violation of various federal lending laws and regulations. Secured numerous dismissals and settled numerous other cases on favorable terms.
- Represented national cellular telephone company in litigation in Kitsap County Superior Court involving multimillion-dollar breach of contract dispute. Obtained multimillion-dollar summary judgment award.
- Represented a Seattle, Washington-based technology company in multimillion-dollar breach of contract action filed in King County Superior Court.
- Represented a large national pipeline company in dispute with various agencies of the State of Washington regarding awarding requisite permits for expansion. Secured injunctive relief in client's favor.
- Represented a British university in breach of contract dispute with former PhD candidate filed in federal court in the Western District of Washington. Secured summary dismissal of case which was upheld on appeal. 2002 WL 73228 (Jan. 8, 2002); 113 Fed.Appx. 193 (2004).
- Represented consultant related to investment in renewable energy tax equity investment.
- Represented Pennsylvania-based energy company in large breach of contract arbitration related to transportation and delivery of natural gas.
- Represented a national cellular telephone company in consumer class action filed in King County Superior Court regarding purported improper allocation of minutes. Case summarily dismissed.

- Represented a Taiwan-based technology company in breach of contract litigation in federal District Court in Indiana and Hong Kong.

Employee Mobility Litigation

- Represented companies regarding allegations of theft of trade secrets, violations of non-compete agreements, or both. Representations extend to many industries, including technology, investment services, pharmaceuticals, medical supplies and devices, global logistics, gaming, premium machine products, marketing, and fisheries. Jurisdictions include state and/or federal courts in Washington, Oregon, California, Texas, Ohio, and Missouri. Have secured restraining orders and injunctions in prosecution (see e.g. Case No. 3:17-CV-01160-MO (Or. D. November 3, 2017) and dismissals while defending.