

## Susan Marmaduke

Shareholder | Portland Office

### Hard Work, Creativity, and Judgment

Successful businesses are built by hard work, creativity, and good judgment. When the product of that effort is threatened, whether by internal dissension or by external challenges, litigation often results. Susan's goal is to solve those problems through the legal system without letting the enterprise, and the people who make it successful, be harmed in the process.

For more than 30 years, Susan has advocated for her clients at the trial court level and on appeal. She has obtained favorable results in disputes over ownership and valuation of businesses, patents and other intellectual property, and a variety of other subject areas.

### Education

Susan received her J.D. from the University of California – Berkeley Law School (Boalt Hall) in 1977. She received her undergraduate degree from Portland State University in 1974 with a BA in Arts and Letters, and a minor in Economics. After earning an Arabic Language Certificate at the Bourguiba Institute of Modern Languages in Tunis, Tunisia, she served as Associate Country Director for the Peace Corps in Yemen.

### Bar Admissions

Susan is admitted to practice in Oregon, Washington, California, and in numerous federal courts, including the Federal Circuit and the United States Supreme Court.

### Professional Recognition

The legal community has recognized Susan's expertise, commitment to improving the legal profession, and service to the community with honors that include:

- **The Award of Merit**, given by the Multnomah Bar Association in recognition of Susan's pro bono work in the disaster recovery centers on the Mississippi Gulf Coast after Hurricane Katrina.
- **The Hon. James M. Burns Federal Practice Award**, given by the Oregon Chapter of the Federal Bar Association in recognition of her work to improve the practice of law in the United States District Court of Oregon.
- AV<sup>®</sup> Preeminent™ 5.0 out of 5.0 Peer Review Rated with **Martindale-Hubbell<sup>®</sup>**.
- Inclusion in **The Best Lawyers in America<sup>®</sup>** in the fields of commercial litigation and appellate practice every year since 2009.
- Designation as a **Lifetime Fellow** of the American Bar Foundation.
- Inclusion in **Super Lawyers<sup>®</sup>** for business litigation or appellate law every year since 2006. Susan was also named to the "Oregon Top 50" by *Oregon Super Lawyers* for 2015, 2016 and 2017.

### Professional Involvement & Community Service

Susan has written reference resources for lawyers, including the Oregon State Bar's Barbooks chapters on "Jurisdiction, Removal and Remand," "Statutes of Limitations and Statutes of Repose," and "Special Writs: Writ of Review and Quo Warranto." She has given instructive presentations to lawyers on shareholder derivative actions, business valuation disputes, and various other litigation and appellate topics.



### Contact Information

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### Practice Emphasis

[Appellate Law](#)

[Business and Commercial Litigation](#)

[Intellectual Property](#)

[Products Liability Defense Litigation](#)

### Professional Recognition



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Susan serves on the board of the Multnomah Bar Foundation. She served as a member of the amicus committee of the Oregon Association of Defense Counsel for more than a decade. She has served on the boards of the Lawyers Campaign for Equal Justice, which raises money to support legal aid services for indigent Oregonians, the national Lawyers Committee for Civil Rights Under Law, and the Multnomah Bar Association. Susan served on the Local Rules Advisory Committee for the US District Court of Oregon for a decade and chaired the committee for three years. She served as the Chair of the US Magistrate Selection Panel for the US District Court of Oregon in 2015.

## Representative Cases

- *City of Eugene v. Comcast of Oregon II, Inc.*, 359 Or 528 (2016). Represented City of Eugene in obtaining Oregon Supreme Court ruling affirming the right of the city to collect a fee for using the public rights-of-way to provide broadband Internet access.
- *Graydog, Inc. v. Giller*, 279 Or App 722 (2016). Represented shareholder in closely held company in obtaining Oregon Court of Appeals ruling upholding shareholder's right to a forced buy-out for fair value under ORS 60.952.
- *James v. Clackamas County*, 353 Or 431 (2013). Represented Clackamas County in obtaining Oregon Supreme Court's reversal of trial court judgment regarding retirement benefits.
- *FLIR Systems, Inc. v. Gambaro*, 486 Fed Appx 878 (Fed Cir 2012). Represented publicly traded company in obtaining Federal Circuit's affirmance of trial court judgment dismissing patent infringement claim.
- *Confidential arbitration* (2010). Represented closely held company in dispute over business valuation in forced buy-out of shareholder under ORS 60.952.
- *Ram Tech, Inc. v. Koresko*, 346 Or 215 (2009). Represented closely held business and its owners in obtaining Oregon Supreme Court's reversal of trial court judgment dismissing fraud claim.
- *Albrecht v. Justices of the Oregon Supreme Court*, 2007 WL 3283694 (D. Or.) Represented manager of regulatory services of the Oregon State Bar against claim by disbarred lawyer that his constitutional rights were violated in disbarment process.
- *Fields v. Coe Manufacturing Company*, USDC (Oregon), No. CV 02 1025 AA and *Fields v. Three Cities Research, Inc. et al.*, No CV 02 975 AA (2005). Represented former CEO and sole shareholder in dispute over his sale of the company.
- *Dean, et al. v. Hagen, et al.*, Multnomah County Circuit Court No. 0103-02505 (2002) – Represented CPA in professional malpractice case involving estate planning and taxation issues.
- *Hayes v. Olmsted & Associates*, 173 Or App 259, 21 P3d 178 (2001) – Represented majority shareholders in appeal of oppressive conduct claim by employee and minority shareholder.
- *Daryl Johnson v. Civil Service Board of City of Portland*, 162 Or App 527, 986 P2d 666 (1999) – Represented Curator of International Rose Test Gardens in petition for writ of review from administrative agency decision and on appeal.
- *McMillan, et al. v. Follansbee, et al.*, Linn County Circuit Court No. 981006 – Represented trust beneficiaries in dispute with trustees and other co-owners of timberland over action for partition.
- *Ron Robertson v. Lincoln Cristi, Inc., et al.*, Clark County (Washington) Superior Court No. 98 2 04785 6 – Represented corporate directors in shareholder dispute.
- *In the Matter of the Estate of Juan Young*, Multnomah County Circuit Court No. 9703 90477 – Represented co-personal representative in dispute among shareholders and fiduciaries over stock redemption agreement; resolution resulted in funding of one of the ten largest charitable trusts in Oregon.
- *Coe Manufacturing, Inc. v. Laminex (Australia) Pty. Ltd.*, Multnomah County Circuit Court No. 9607-05618; and *Reliance Electric Industrial Co., et al v. Laminex (Australia) Pty. Ltd.*, No. 9607-05625 (consolidated cases) – Represented Australian particleboard manufacturer in the Oregon portion of a multi-party international commercial dispute.
- *Mentor Graphics Corporation v. ATTI, Inc.*, Washington County Circuit Court No. C970634CV – Represented Mentor Graphics in trade secret litigation involving "design for test" software.
- *Mushroom Associates, et al. v. Monterey Mushrooms, Inc., et al.*, U.S. District Court for Northern District of California, Civ. No. 91-1092 WHO – Represented defendants in patent infringement case involving vacuum infusion of mushrooms during processing.
- *Walker v. Mitchell, et al.*, 133 Or App 565, 891 P2d 1359 (1995) – Represented decedent's estate in wrongful death action against Defendant State of Oregon Aeronautics Division and on appeal.
- *Hirsovescu v. Shangri-La, Inc.*, 127 Or App 22, 870 P2d 859 (1994) – Represented employee in appeal of action against corporation and its officers and directors.
- *Glacier Optical v. Optique Due Monde, Ltd.*, 816 F Supp 646 (D Or 1993) – Represented retailer in antitrust action against supplier and on appeal.
- *Monterey Mushrooms, Inc. v. Vito John LaTorre, et al.*, Monterey County Superior Court No. 98041 – Represented mushroom grower in dispute over fair market value of world's largest mushroom growing facility.
- *Verex Assurance, Inc. v. California Housing Finance Authority*, Sacramento County Superior Court – Represented mortgage guaranty insurance company in action against the California Housing Finance Authority for breach of contract to provide mortgage guaranty insurance for 3,000 unit housing development.

- *MacLean & Associates, Inc. v. American Guaranty Life Ins. Co.*, 85 Or App 284, 736 P2d 586 (1987) – Represented cable television system operator in action for damages arising out of breach of contract to install and operate cable system at Rippling River resort and on appeal.
- *Verex Assurance, Inc. v. Maduff Mortgage Co.*, 622 F Supp 85 (1985), aff'd in part, rev'd in part, *Verex Assurance v. John Hanson Savings & Loan*, 816 F2d 1296 (9<sup>th</sup> Cir 1987) – Represented mortgage guaranty insurer in action to rescind coverage of fraudulent loans in two Oregon real estate developments and on appeal.

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## Publications

Susan has written numerous articles on law and public policy. A few examples include:

- "Statutes of Limitations and Statutes of Repose," Torts, *Oregon State Bar Legal Publications* (© 2012).
- "Special Writs: Writ of Review and *Quo Warranto*," Oregon Civil Pleading and Practice, *Oregon State Bar Legal Publications* (© 2012).
- "Shareholder Disputes: A Statutory Escape Route," *Oregon State Bar Bulletin* (© 2010).
- "Advance agreements reduce chance of succession battles," *Portland Business Journal* (© 2010).
- "Jurisdiction, Removal and Remand," Federal Civil Litigation in Oregon, *Oregon State Bar Legal Publications* (© 2002), Update (© 2009).
- "Downstream: Negligence can cause liability to strangers," *Portland Business Journal* (© 2008).
- "Let's Keep Politics Out of the Courts," 67- *Oregon State Bulletin* 70 (© 2006).
- "Safeguarding our local charities' funds," *Oregon Business Magazine* (© 2005).

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## Presentations

- "Business Break-ups," for the Oregon State Bar's Business Law Section CLE (November 5, 2015).
- "The Anatomy of a Derivative Action," a Multnomah Bar Association Continuing Legal Education program (October 4, 2012).
- "Valuation Disputes in Commercial Cases: Litigation Strategy and Expert Advice," a Multnomah Bar Association Legal Education program (June 8, 2011).
- "Critical Issues in Arbitration," an Oregon State Bar Continuing Legal Education program (October 7, 2010).
- 2007 OADC Fall Seminar- "Appellate Update," sponsored by the Oregon Association of Defense Counsel (November 2007).
- 2006 Oregon Health Law Update- "Clarke v. OHSU: The Broader Implications," sponsored by the Oregon Bar Association (December 1, 2006).
- Community Planning Day- "Disaster Planning: Lessons Learned from Katrina," sponsored by the City of Portland Planning and Angelo Planning Group (November 2, 2006).
- "Forum on Oregon Constitutional Amendment 40" Sponsored by the Oregon State Bar and American Constitution Society for Law and Policy (October 18, 2006).
- Sustainable Land Use & Measure 37 Symposium, "The State of the Litigation," Sponsored by the Journal of Litigation (October 7, 2005).
- Judgment Day for Litigators Continuing Legal Education Seminar- "Appealing Judgments after January 1, 2004" (December 12, 2004).

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