



## Colin O. Miwa

### SENIOR COUNSEL

Colin is senior counsel and has practiced law at Cades Schutte for over 40 years, primarily in the Intellectual Property, Construction Law and Litigation, and Bankruptcy and Creditors' Rights Practice Groups.

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## Overview

Colin is senior counsel and has practiced law at Cades Schutte for over 40 years, primarily in the Intellectual Property, Construction Law and Litigation, and Bankruptcy and Creditors' Rights Practice Groups.

His practice concentrates on commercial and general business litigation, including litigation of trademark, copyright, and patent disputes, lender liability claims, and arbitration of construction delay and defect claims.

Colin has represented individual business owners as well as large local and national companies in Hawai'i state and federal trial and appellate courts, and in administrative trials and proceedings before the U.S. Patent and Trademark Office. He has successfully prosecuted and defended against claims of patent, trademark, and copyright infringement, and has obtained and in other cases, defeated emergency relief and orders enjoining infringement of intellectual property rights in courts located both in Hawai'i and on the mainland. Colin has also had significant commercial litigation and arbitration experience, including jury trials on O'ahu and the outer islands.

Colin is an active member of the American Judicature Society (AJS) and a recipient of the 2021 AJS Special Merit Citation. He has served on the AJS Board of Directors since 2009 and actively participates on several of its committees. He has been ranked in *Super Lawyers* and as an *IP Star* in patent and trademark litigation.

In his spare time, Colin has been actively engaged in service to his profession and community. He has served on the Board of Directors of Diamond Head Theatre (DHT) since 2015, and is currently the Chair and was Chair of the Facilities Committee working on the construction of DHT's new theatre. Colin also served as the Lawyer Representative for the Ninth Circuit Judicial Conference and as a member of the Hawaii Judiciary's Permanent Committee on the Rules of Civil Procedure and Circuit Court Civil Rules.

## Practices & Industries

**Bankruptcy & Creditors' Rights**

**Banks & Financial Institutions**

**Construction**

**Finance**

**Hospitality & Retail**

**Intellectual Property**

**Litigation**

- Alternative Dispute Resolution
- Commercial Disputes

**Real Estate**

- Real Estate Disputes

**Technology**

## Noteworthy

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### Experience

#### Commercial and General Business Litigation

#### Patent, Trademark, and Other Intellectual Property Disputes

- Lead trial counsel defending local airline in patent infringement action filed in U.S. District Court for the Eastern District of Texas
- Lead trial counsel defending local coffee product manufacturer in patent infringement action filed in the U.S. District Court for the District of Hawai'i
- Lead trial counsel defending MMA production and marketing company in trademark infringement action filed in USDC Hawai'i, defeating opposing party's attempt to obtain preliminary and permanent injunctive relief
- Local co-counsel for U.S. automobile manufacturer in trademark infringement action filed in USDC Hawai'i, defeating opposing party's attempt to obtain preliminary injunctive relief
- Lead trial counsel for local clothing retailer in trademark infringement action against mainland clothing wholesaler, obtaining preliminary injunction in USDC Hawai'i
- Lead trial counsel for a Hawai'i real estate and resort services company in various federal court trademark infringement actions, domain name arbitrations, and administrative proceedings before the U.S. Patent and Trademark Office, Trademark Trial and Appeal Board
- Representation of various companies in connection with patent disputes
- Representation of Hawai'i fabric designer pursuing various copyright infringement claims

#### Construction Disputes and Related Matters

- Lead trial counsel for general contractor defending against claims filed by the City and County of Honolulu for defective construction of various public swimming pools and golf course facilities
- Lead trial counsel for general contractor in collection action filed by steel framing subcontractor despite claims of subcontractor's defective installation
- Representation of developer in resolving claims against well drilling contractor for negligent installation of fresh water well pump and related work
- Representation of developer of residential subdivision against homeowner claims of defective grading and related soils work
- Representation of homeowner against contractor's mechanic's lien action; successfully expunged lien for defective renovation work
- Representation of various parties in connection with numerous contracts for design and construction services

#### Commercial Law and Litigation

- Lead counsel in arbitration of commercial lease dispute regarding hospital lessee's repair and maintenance covenants, obtaining favorable award for the lessor
- Lead trial counsel for plaintiffs in a five-week state court jury trial, obtaining a \$1.6 million judgment for terminated insurance agents against one of Hawai'i's largest companies. Affirmed on appeal. See *Porter, et al. v. Servco Pacific Inc, et al.*, 116 Haw. 42, 169 P.3d 994 (Haw. App. 2007)

- Representation of anchor retailer in state court litigation against institutional owners of state's largest shopping center
- Representation of large Waikiki landowner in state and federal court litigation against tenants
- Representation of landowners in negotiation and documentation of contracts relating to construction of various projects, including major commercial projects and shopping centers

## Lender Liability

- Lead counsel for a large Japanese financial institution in state court foreclosure litigation involving receivership over Waikiki hotel and negotiation of property sale
- Defense trial counsel for largest Japanese bank in major lender liability litigation against a Japanese real estate developer
- Lead trial counsel for local lender in state court action, defending against lender liability claims based on an alleged failure to monitor construction
- Lead trial counsel for state's largest bank in state court action, defending against various lender liability claims alleged by a Hawai'i real estate developer

## Awards

- Recipient of the American Judicature Society Special Merit Citation, 2021
- Listed in *Super Lawyers*®, 2015-2020
- IP Star by *Managing Intellectual Property* for 2014-2017, 2021

## Credentials

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### Education

- J.D. (1981), Georgetown University
- B.A. Political Science (1978), Stanford University, with honors

### Admissions

- Hawai'i State Bar (1981)
- United States District Court for the District of Hawai'i
- United States Court of Appeals for the Ninth Circuit

### Membership

- Hawaii State Bar Association
- American Bar Association
- American Judicature Society, Hawai'i Chapter, Board of Directors (including serving as Co-chair, Standing Committee on Judicial Selection, Retention, and Accountability; Co-chair, Sidebar Standing Committee; Co-chair, Special Committee on Mandatory Retirement of State Court Judges; and Member, Communications Committee)
- Hawai'i Supreme Court, Member of Permanent Committee on Rules of Civil Procedure and Circuit Court Rules
- Ninth Circuit Judicial Conference, Lawyer Representative

- Diamond Head Theatre, Chairman