



## **ERIC MARTIN**

**Partner**

**St. Louis/Los Angeles**

**Partner and Global Practice Co-Leader - Financial Services Disputes and Investigations**

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## **BIOGRAPHY**

Eric Martin is an accomplished trial attorney and co-leader of the firm's global Financial Services Disputes & Investigations practice. Eric's national trial practice involves representing clients in the cryptocurrency, securities, and consumer finance industries. He serves annually on the faculty of the National Trial Advocacy College at the University of Virginia School of Law.

Eric's growing crypto practice focuses on litigation arising from the use of blockchain, cryptocurrencies and digital assets. Eric is one of the most experienced trial attorneys in this growing field, having represented cryptocurrency exchanges in multiple, high stakes actions,

including a recent multi-million dollar JAMS arbitration involving allegations of lost bitcoin that resulted in a complete defense verdict.

On the securities front, Eric has successfully tried a wide variety of cases involving broker-dealers and investment advisors. Recent examples include defense verdicts for two broker-dealers in FINRA arbitrations involving U-5 defamation claims. Eric has also successfully handled claims involving raiding, non-competes, Broker Protocol, and Regulation S-P.

Eric has obtained successful outcomes for national banks, mortgage servicers, and consumer finance companies in precedent-setting individual suits and class actions. Examples include two favorable Eighth Circuit Court of Appeals decisions that made fraud suits more difficult to bring against mortgage servicers, and, in a case that the *New York Times* covered, he argued before the Missouri Supreme Court in an appeal that addressed numerous issues, including the right of a national bank to have a jury trial.

Eric's experience in obtaining jury verdicts and arbitration awards for Fortune 500 companies informs his ability to navigate challenging claims and hostile jurisdictions.

Additionally, Eric represents clients in a wide variety of real estate litigation, such as claims involving eminent domain, radius restrictions, and adverse possession. He regularly assists clients in the telecommunications industry with various permitting and litigation issues relating to cell towers. Eric achieved one of the leading Telecommunications Act of 1996 decisions from the Eighth Circuit Court of Appeals that reversed the district court and invoked the All Writs Act to prevent a state court challenge to the cell tower permit.

Missouri Lawyers Weekly named Eric one of the state's "Top Lawyers." Eric provides *pro bono* legal services to various religious, civic and charitable institutions. He also volunteers as a tutor at an inner city elementary school.

## CIVIC INVOLVEMENT & HONORS

- Instructor, National Trial Advocacy College at the University of Virginia School of Law (2008-2009, 2013-present)
- Named a "Top Lawyer" by *Missouri Lawyers Weekly* (2006)
- AV Rated by Martindale-Hubbell, AV® Preeminent™ 5.0 out of 5.0
- Tutor at Sigel Elementary School,
- *Pro bono* counsel for First Presbyterian Church of Kirkwood

## PROFESSIONAL AFFILIATIONS

- American Bar Association, Securities Litigation Committee; Commercial and Business Litigation Committee; Real Estate Litigation Committee
- The Bar Association of Metropolitan St. Louis
- The Illinois State Bar Association
- The Missouri Bar

## ADMISSIONS

- California, 2020
- Michigan, 2018
- Kansas, 2012
- Illinois, 1997
- Missouri, 1996
- United States Courts of Appeals for the Seventh, Eighth and Tenth Circuits  
United States District Courts for the Eastern and Western Districts of Missouri; Central, Northern and Southern Districts of Illinois; Central and Northern Districts of California; District of Kansas; Eastern District of Wisconsin; and Eastern and Western Districts of Michigan

## EDUCATION

University of Illinois, J.D., *magna cum laude*, 1996

Bradley University, B.A., *summa cum laude*, 1993

## RELATED PRACTICE AREAS

- Business & Commercial Disputes
- Real Estate
- Securities Litigation and Enforcement
- Consumer Finance Disputes
- Broker-Dealer and Investment Advisor Regulatory Enforcement, Disputes and Investigations
- Fintech
- Eminent Domain
- Real Estate Disputes

- Banking & Finance Disputes
- Financial Regulation Compliance & Investigations
- Finance
- Investigations
- Litigation & Dispute Resolution
- Regulation, Compliance & Advisory
- Class Actions & Mass Torts
- Crypto and Digital Assets
- Enforcement
- Litigation
- Regulation
- Cryptocurrency & Digital Assets
- Data Center & Digital Infrastructure Team
- Financial Services
- Employment Class & Collective Actions
- Sports (Class Actions)
- Data Privacy, Telecommunications & Collections
- Toxic Tort
- Consumer Fraud
- Insurance (Class Actions)
- Pharmaceutical & Medical Devices (Class Actions)
- Antitrust Class Actions
- Shareholder Securities and Mergers & Acquisitions
- Food, Ag & Nutrition (Class Actions)
- Class Actions

## EXPERIENCE

### Financial Services Litigation: Digital Assets

- Defended a decentralized exchange (“DEX”) against claims brought by a liquidity provider regarding whether the liquidity provider is entitled to tokens following the launch of the DEX.
- Obtained a defense verdict for a cryptocurrency exchange in a multi-million dollar claim involving stolen bitcoin. Defendant awarded attorneys’ fees and costs.
- Obtained a judgment for a crypto exchange against a crypto company and its CEO on an indemnity claim.

## Financial Services Litigation: Broker-Dealer and Securities

- Obtained a defense verdict in a U-5 defamation case for a Minneapolis-based securities firm in a 5-day arbitration in Milwaukee.
- Obtained a defense verdict in U-5 defamation claim for a securities firm in a 4-day arbitration in Chicago.
- Successfully represented a national broker dealer in a two-week FINRA arbitration on a multi-million-dollar defamation claim that resulted in a defense verdict.
- Represented a securities firm in a 9-day FINRA arbitration hearing in Chicago involving defamation and issues relating to Broker Protocol and Regulation S-P.
- Defended a federal class action involving an alleged \$150 million shortfall in a pre-need funeral trust in a case that concluded successfully for his client.
- Successfully represented a broker-dealer in a two week multi-million dollar FINRA arbitration involving a raiding claim brought by a rival broker-dealer.
- Represented a broker dealer in a federal trial in the Southern District of Illinois involving the timing of the sale of an unregistered security.
- Obtained a directed verdict in a FINRA arbitration involving “selling away” claims.
- Obtained a favorable award in defending a broker-dealer and two financial advisers in a FINRA arbitration involving non-compete and tortious interference claims brought by another broker-dealer.
- In *Schwarz v. Gierke*, 788 N.W. 302 (N.D. 2010), Eric convinced the North Dakota Supreme Court to reverse a trial court decision regarding the arbitrability of a dispute.
- In a pair of appellate decisions in the same case—*Hollingshead v. A.G. Edwards & Sons, Inc.*, 396 Ill.App.3d (5th Dist. 2009) and 2012 IL App (5th) 120095-U—Eric successfully argued that the trial court entered erroneous orders denying motions to compel arbitration.
- Eric has obtained numerous Awards in promissory note cases for broker-dealers. For example, in *Waddell & Reed v. McGaffey*, 2016 WL 4537833 (Aug. 23, 2016), the FINRA Panel awarded Eric's client the full amount sought in a promissory note case despite the respondent's vigorous assertion of various defenses.

## Financial Services Litigation: Banking and Mortgage Servicing

Eric represents national banks and mortgage servicers in various litigation matters, including wrongful foreclosure claims and claims under the Real Estate Settlement Procedures Act (RESPA),

the Missouri Merchandising Practices Act (MMPA), the Illinois Consumer Fraud and Deceptive Business Practices Act (ICFA), the Kansas Consumer Protection Act (KCPA), the Telephone Consumer Protection Act (TCPA), and the Fair Debt Collections Practices Act (FDCPA).

- Argued before the Missouri Supreme Court and obtained vacation of a multi-million dollar judgment against a national bank and remand the case for a new trial on damages.
- Prevailed in an appeal before the Missouri Court of Appeals, Eastern District on behalf of one of the nation's largest mortgage servicers in a declaratory judgment action in which plaintiffs sought to avoid a \$1 million obligation on their property based upon various Uniform Commercial Code arguments.
- Obtained a precedent-setting ruling in the Eighth Circuit Court of Appeals that made fraud and negligent misrepresentation claims more difficult to assert against financial institutions.
- Obtained summary judgment in the Western District of Missouri federal court on an MMPA claim following the Eighth Circuit decision referenced above. The Court's dismissal was one of the first rulings in favor of a mortgage servicer on an MMPA claim following Missouri Supreme decisions that expanded MMPA liability to servicing activities.
- Obtained a dismissal of a federal class action suit regarding the type of notice that a foreclosure sale purchaser must provide. The Court relied on the *Wilson* decision, explained in the next bullet point.
- In *Federal National Mortgage Association v. Wilson*, 409 S.W.3d 490 (Mo. App. 2013), Eric convinced the Missouri Court of Appeals, in an issue of first impression, to overturn a trial court ruling and established that a foreclosure sale purchaser was entitled to immediate possession without further demand.
- Persuaded the Eighth Circuit Court of Appeals to affirm the dismissal of the borrower's claims and sustain heightened standards for asserting fraud claims.
- Obtained summary judgment in a federal class action in the Eastern District of Missouri challenging the securitization of asset backed securities and a national bank's loan modification procedures.
- Represented a financial services company in a successful settlement of a class action involving alleging UCC violations relating to sales of vehicles following repossession.
- Obtained a defense verdict in a jury trial in Jackson County, Missouri for a national bank in a dispute with the world's largest property restoration company.
- Represented a national bank in a successful settlement of class action involving the Second Mortgage Loan Act in the Western District of Missouri.

## Real Estate Litigation

Eric has an extensive background in real estate litigation such as condemnation, lease enforcement, radius restrictions, and adverse possession. Eric's background is distinctive in this area in that he has successfully tried real estate disputes to verdict in both the jury and bench trial contexts and has obtained significant appellate victories.

- In *Hemsath v. City of O'Fallon*, 261 S.W.3d 1 (Mo.App. E.D. 2008), Eric convinced the appellate court to reverse a million dollar plus verdict involving an alleged breach of a real estate covenant and enter judgment in favor of his client.

Eric has represented both condemning authorities and property owners in eminent domain actions.

- For example, he has represented landowners in a high profile condemnation matter involving a prominent building in downtown St. Louis, a matter which was covered by *The St. Louis Business Journal*.
- Represented a municipality affected by numerous condemnation actions arising out of the expansion of Lambert-St. Louis International Airport.
- In a rarely used condemnation proceeding, Eric represented a building owner in a condemnation of a leasehold interest brought by the federal government.
- Obtained a defense verdict for a property owner in a Madison County, Illinois jury trial involving an adverse possession claim.
- Obtained a verdict in favor of a high-end shopping center seeking to enforce radius restriction in St. Louis County.
- Successfully represented the Federal Reserve Bank of St. Louis in an injunction action involving the development of a parking garage.

## Telecommunications Litigation

Eric assists telecommunications carriers and tower leasing companies in obtaining permits for cell towers. When litigation is required, Eric has extensive experience in litigating challenges to telecommunications permits in federal court under the Telecommunications Act of 1996 ("TCA") and state court certiorari proceedings.

- In *USCOC of Greater Missouri, LLC v. County of Franklin, Missouri*, 636 F.3d 927 (8th Cir. 2011), Eric convinced the Eighth Circuit Court of Appeals to reverse a federal district court decision and order that barriers to the construction of a telecommunications tower be removed. The resulting opinion is one of the strongest TCA decisions in the nation.



- Apart from permitting issues, Eric has broad experience representing telecommunication clients in a variety of contexts.
- Obtained a defense verdict for a national telecommunications carrier in a St. Louis County jury trial involving revenue sharing.
- Obtained a permanent injunction against a lessor who interviewed with a cell tower company's right to use an easement.

## RESOURCES

### SPEAKING ENGAGEMENTS

- Presenter, "Recent Developments in Cryptocurrency," In House Presentation, St. Louis, October 2022
- Presenter, "Crypto Update: Emerging Themes," BCLP Webinar, London, June 2022
- Presenter, "Overview of Missouri Disciplinary System," BCLP Ethics Seminar, St. Louis, June 2022
- Presenter, "Crypto Coffee Hour," BCLP Webinar, New York City, April 2022
- Presenter, "Upjohn Warnings: Avoiding Ethical Traps," BCLP Ethics Seminar, St. Louis, June 2021
- Presenter, "Brave New World: Strategies for Effective Objections to Written Discovery," Bar Association of Metropolitan St. Louis, September 2020
- Presenter, "Ethics Traps for In-House Counsel," BCLP Ethics Seminar, St. Louis, August 2020
- Presenter, "Demonstration of Closing Statement," Trial Advocacy College at the University of Virginia School of Law, Charlottesville, Virginia, January 2019
- Presenter, "Developments in the Law," Missouri Bankers Association Conference, October 2018
- Panel Member, "Appellate Lawyering in the Trenches," Bar Association of Metropolitan St. Louis, May 2017
- Panel Member, "Insider's Guide to Class Action Litigation," Bar Association of Metropolitan St. Louis, September 2012



- Presenter, “Dealing with Troubled Tenants in Troubled Times,” Building Owners and Managers Association of Metropolitan St. Louis, April 2009
- Presenter, “Demonstration of Cross Examination of Expert Witness,” Trial Advocacy College at the University of Virginia School of Law, Charlottesville, Virginia, January 2009
- Presenter, “Demonstration of Direct Examination of Expert Witness,” Trial Advocacy College at the University of Virginia School of Law, Charlottesville, Virginia, January 2008
- Presenter, “Electronic Discovery in the Information Age,” Brown Smith Wallace CIO Council, St. Louis, Missouri, June 2007
- Presenter, “Game Under Protest: Key Differences Between Courts and Arbitrations,” Blackwell Sanders Corporate Counsel CLE, St. Louis, Missouri, May 2007

## RELATED INSIGHTS

Insights

Mar 18, 2024

### **SEC Adopts Expanded Exchange Act Dealer Rules: What Do the New SEC Rules Mean for DeFi?**

News

Feb 28, 2024

### **Predicting DeFi regulatory landscapes: insights for 2024**

Insights

Jan 18, 2024

### **What is the path ahead for DeFi through the eyes of policymakers?**

Insights

Jan 17, 2024

### **At long last: what crypto's first spot ETFs mean for the digital asset industry**

After years of denials, the SEC has finally approved its first Bitcoin spot ETFs. Reaching this point has involved legal battles, repeated reviews of applications, and much more. That said, the SEC's approval of a Bitcoin spot ETF represents a huge leap forward for the digital asset industry: it further solidifies the primacy of Bitcoin and other cryptocurrencies as an asset class. However, these approvals were not straightforward—and at times, seemed improbable. Nevertheless, approval now deals an even greater blow to the SEC's regulation by enforcement approach. Given that Bitcoin spot ETFs have now been approved, digital assets will only be further legitimized as an asset class.

Insights

Sep 07, 2023

### **Call for Vacatur of Massachusetts' Fiduciary Duty Standard for Broker/Dealers**

Key Takeaways: The Massachusetts Supreme Judicial Court upheld the fiduciary duty standard of care imposed on broker/dealers by the Commonwealth of Massachusetts on August 25, 2023. Below we explain the practical implications of the recent court opinion and highlight why the United States Supreme Court should grant a Writ of Certiorari and vacate the Massachusetts' fiduciary duty standard.

Awards

Aug 17, 2023

## **The Best Lawyers in America® 2024**

Insights

Jul 14, 2023

## **SEC v. Ripple Labs: A Critical Industry Win**

On July 13, 2023, Southern District of New York Judge Analisa Torres issued an Order in SEC v. Ripple Labs, Inc. The SEC alleged that Ripple Labs had issued unregistered securities to investors, but Ripple contended that its token, XRP, was not a security as it was not an investment contract under the Howey test. Judge Torres' Order provided three key holdings regarding the question of whether a transaction of XRP is an investment contract: first, when issued to institutional investors, XRP's sale was a security; second, when sold via exchanges "programmatically" to individual investors, XRP's sale was not a security; and third, when issued to executives or via grants, XRP's issuance was not a security. Judge Torres' Order deals a significant blow to many of the SEC's recent arguments that almost all cryptocurrencies are immutably securities—cryptocurrencies themselves are never securities.

Awards

Jun 08, 2023

## **Legal 500 US 2023**

News

Jun 05, 2023

## **Partners author article in 'Law360' on US and UK crypto regulation**