



Principal
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Bar Admissions
Maryland

Court Admissions
Court of Appeals of
Maryland

United States Court of
Appeals for the Fourth
Circuit

United States District
Court for the District
of Maryland

Education
University of Maryland
School of Law (J.D.,
with honors, 1984)
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University of Maryland
(B.A., cum laude,
1981)

DIANE FESTINO SCHMITT

Experience

Diane Festino Schmitt, a principal in Ober|Kaler's Litigation Group and Creditors' Rights Group, focuses on commercial, business and corporate litigation. Diane has over 25 years of experience representing international, national and local commercial credit lenders in federal and state courts.

Diane provides her banking clients a full range of litigation, negotiation and dispute resolution services. She handles commercial collection actions and confessed judgments on defaulted notes, guarantees, loan agreements, leases and contracts. As the head of Ober|Kaler's foreclosure task force, she also conducts foreclosure actions on real estate as varied as apartment complexes to waterfront estates.

Additionally, she defends lender liability counterclaims sounding in tort, contract and statute, including counterclaims consolidated before the judicial panel on multi-district litigation, and those based on inter-creditor agreements. Diane defends lenders in class action claims arising from consumer automobile repossessions, and assists lenders in responding to subpoenas for financial records.

In addition to her extensive creditor's rights work, Diane has an active general commercial litigation practice that includes contract disputes, insurance coverage disputes and tort disputes for a diverse group of clients including health care institutions, telecommunications companies, and other businesses. Diane has also briefed and argued numerous cases before Maryland's Courts of Appeal.

As co-chair of the firm's Mentoring Program since 2004, Diane helps give back to the community by pairing Ober|Kaler attorneys, paralegals and staff with inner city Baltimore high school and elementary school students.

Representative Cases

- Successfully petitioned the Maryland Court of Appeals for *certiorari* and obtained a ruling in a case of first impression that MEDCO's tax exemption statute relieves that entity from paying excise taxes it is required to pay on its properties and activities, including recordation taxes that MEDCO agrees by contract to pay. The Decision also held that recording a deed of trust to secure financing is a "requirement" sufficient to trigger the statutory exemption, and that MEDCO's express tax exemption statute controls over the general Tax-Property Article recordation tax provisions as to whether recordation taxes are exempt or must be paid. See [Maryland Economic Development Corporation v. Montgomery County, Maryland](#) (2013)

- Achieved a favorable settlement for a major national bank in defense of a class action suit in the United States District Court for the District of Maryland. The settlement covered a class of about 3,000 consumers who alleged that the bank did not follow Maryland Commercial Law requirements when repossessing and selling vehicles the bank had financed. The settlement was reached during the early motion phase of the litigation, saving the lender significant legal fees

- Successfully defended a series of \$10,000,000 confessed judgments on behalf of a major national bank in Maryland State Court City against claims that guarantors had meritorious defenses based on the Federal and Maryland Equal Credit Opportunities Act (ECOA), based on allegations of "negligent lending" and based on allegations that the Bank "wrongfully" failed to follow the loan documents and amendments thereto
- Represented a major national bank in litigation pending initially in six jurisdictions, and then consolidated via the Judicial Panel on Multi-District Litigation, arising out of loans in excess of \$25 million to health care facilities located throughout the country
- Obtained full payment for an international commercial credit company in connection with a \$7.1 million real estate based loan, including victories on the lenders' claims against the personal guarantors in federal court and on the corporate borrowers despite the borrowers' Chapter 11 filing in the United States Bankruptcy Court for the District of Maryland
- Defended a commercial foreclosure sale and confessed judgment suits against claims of lender liability and fraud in the inducement of the original loan in Maryland State Court
- Obtained summary judgment for a major international bank in connection with tortious interference, conspiracy, and fraudulent conveyance claims in Maryland State Court raised by a junior creditor
- Obtained a series of summary judgments for a local savings and loan association and its directors and officers in connection with breach of fiduciary duty, fraud, negligence and conspiracy claims in Maryland State Court

Professional Memberships

- American Bar Association
- Maryland State Bar Association
- Women's Bar Association of Maryland

Professional Background

- Law Clerk, Associate Judge Theodore G. Bloom, Court of Special Appeals
- Former Member, Judicial Nominating Committee for the Women's Bar Association of Maryland

Publications & Presentations

- Lecturer, National Equipment Leasing Association
- Lecturer, Maryland Association of Certified Public Accountants
- Author, "Family Leave and Medical Leave Act," *Guide to Equal Employment Practices*, Warren, Gorham & Lamont