



## TAMERA D. WESTERBERG

### Partner

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**Tammy Westerberg represents clients in complex commercial litigation and the defense of professional liability lawsuits, in particular for lawyers and law firms. Her practice also includes employment, investigations, and class action litigation.**

### EDUCATION

University of Denver Sturm  
College of Law, J.D., 1998  
*Law Review*, General Editor  
American Jurisprudence Award,  
Constitutional Law I & II

Whittier College, B.A., 1992,  
Major in Political Science; Minors  
in Music Performance and  
Psychology

### OTHER EXPERIENCE

Hogan & Hartson LLP  
Kamlet Shepherd & Reichert,  
LLP  
Brownstein Hyatt & Farber, P.C.  
Petrie Bauer Vriesman & Hecht  
LLP

### ADMISSIONS

Colorado

### PRACTICE AREAS

- Appellate
- Class Actions
- Commercial Litigation
- Employment
- Investigations & Compliance
- Legal Professional Liability
- Professional Liability

### BIOGRAPHY

Tammy Westerberg has over 15 years of experience helping clients resolve professional liability disputes and complex commercial litigation through trials, arbitrations, and negotiations. Tammy dedicates a significant portion of her practice to the defense of lawyers and law firms facing malpractice claims. She also represents Fortune 500 companies, small businesses, and individuals in complex commercial litigation, including employment, construction defect, securities, and class action matters in federal and state courts. Her industry experience includes consumer goods, construction and engineering, energy (in particular oil and gas), and financial services.

Tammy's active commercial practice keeps her in close contact with the issues underlying many of the professional malpractice disputes she helps clients resolve. Early in her career, Tammy spent several years handling M&A and other corporate matters. Clients appreciate her first-hand experience and familiarity with the transactional and related issues that lie at the heart of many commercial and professional malpractice lawsuits.

Additionally, Tammy's experience includes corporate governance matters, contract and partnership disputes, internal investigations, and litigation and counseling related to consumer protection issues. In this capacity, she advises clients on quasi criminal litigation and investigations with an eye toward potential civil litigation that could follow.

### CASES

#### Legal Malpractice

- Successfully represented several lawyers and law firms in nine different actions involving complex allegations of professional negligence in various issues, including contract, fiduciary duty, fraud, consumer protection, and others.
- Successfully resolved a professional liability case involving a contested dissolution action without any lawsuit or monetary settlement. The putative plaintiff was seeking over \$30 million in damages.
- Successfully resolved a professional liability action involving complex real estate transactions, allegations of fraud, and breach of fiduciary duties.
- Represented an international law firm and lawyers in a multidefendant action involving claims for professional negligence, constitutional and statutory violations, and conspiracy among private entities, individuals, and governmental entities and representatives, arising out of a public-private partnership and contract.
- Represented a Canadian law firm in a professional negligence action

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against several defendants arising out of failed securities transactions.

- Obtained a complete dismissal and an award of attorneys' fees in a legal malpractice case involving several defendants and other claims of defamation and campaign violations.

## Commercial Litigation

- Won summary judgment on multiple claims for a national dermatology practice with over 50 offices. Claims included breach of contract, conspiracy, fraud, and other allegations. Once the major claims were dismissed, the plaintiffs agreed to a nuisance settlement that involved no payment by WTO's client.
- Served on a trial team for commercial matters for a large automobile manufacturer.
- Represented a large steel manufacturer in a case filed by the Attorney General of Colorado alleging significant consumer protection act violations and seeking millions of dollars, resulting in minimal damages awarded.
- Represented a large transportation company for several years in its dissolution with a former business partner, and in contract disputes and negotiations with local contracting authorities.
- Secured appellate affirmance of the dismissal of a commercial case involving a bank's leasing division and allegations of consumer fraud.
- Successfully represented a construction management company in a large, public housing development dispute in Texas.

## Employment & Competition

- Represented a private equity company and three individuals involved in the distressed debt industry in a case asserting a multimillion-dollar damage award for alleged misappropriation of trade secrets. The three-year litigation was complex and contentious, involving claims asserting substantial trade secret violations, as well as fiduciary duty, contract, and other tort claims.
- Represented several companies in a variety of industries in enforcing non-compete and non-solicitation provisions in employment contracts, as well as advice and counseling in relation to such provisions.
- Represented a large financial investment firm in connection with claims against a former broker in connection with alleged fraud, fiduciary duty and negligent supervision claims.
- Represented an information services company in obtaining a voluntary temporary restraining order and preliminary injunction against two former employees in connection with trade secret, noncompete and other contract-related claims.
- Won affirmance preserving WTO's trial court dismissal of a wrongful

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termination lawsuit involving the public policy exception to employment at will.

- Successfully tried to a jury an unfair gas pricing case on behalf of two locally owned gas station/convenience stores in federal court.
- Obtained a preliminary injunction enforcing WTO's client's non-competition agreement with a former employee after a two-day hearing in Jefferson County, Colorado.

## Oil & Gas

- Successfully managed settlement negotiations for an oil and gas client facing divergent concerns from two sets of plaintiffs. WTO worked closely with our client to develop a detailed surface use agreement providing access to underlying resources while also addressing fugitive dust concerns.
- *Belmont v. BP America Production* (D. Wyo. 2015) - Defeated class certification for BP in a natural gas royalties underpayment case heard in federal court in Wyoming.
- Represented BP in several class actions involving underpayment of royalties and other contractual disputes.
- Won a reversal from the Tenth Circuit in favor of BP in a case alleging underpayment of royalties.

## Other Relevant Experience

- Successfully represented a university in a grand jury investigation regarding various school scandals.
- Represented a Texas limited partnership in a disputed family partition action in New Mexico and Colorado.

## COMMUNITY MEMBERSHIPS, ACTIVITIES & HONORS

Girls on the Run, Coach, 2015-2016  
Stanley British Primary School  
Strategic Planning Committee, 2013-present  
Paddington Station Preschool  
Board of Directors, 2012-2014  
Colorado Children's Campaign Circle of Friends  
Board of Directors, 2011-2014  
Legislative Liaison, 2011-2014  
Denver Botanic Gardens  
Fete des Fleurs Committee, 2009-2012  
Downtown Denver Partnership  
Emerging Leaders Program  
SafeHouse Denver, Inc.  
Board of Directors, 2000-2007

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Metro Denver Sports Commission Charities Board  
Board of Directors, 2003-2007

Girls' Sports International  
Board of Directors, 1999-2001

Greenlee Elementary School Tutoring Program  
Participant

Cheltenham Elementary Literacy Program  
Participant

Leukemia & Lymphoma Society  
Team in Training, Participant

Outward Bound Team Relay  
Participant, 2004 and 2006

Tri-for-the-Cure  
All Women Triathlon, Participant, 2008

## ARTICLES & PRESENTATIONS

- Conflicts of Interest: Take Heed and Avoid Jury Wrath