

TRIALS  
ADVOCACY

DISPUTE RESOLUTION

ARBITRATIONS APPEALS

2014

Annual Review



Wheeler Trigg O'Donnell LLP

TRIAL TESTED™

MEDIATION

LITIGATION CLASS ACTIONS

MEDIATION VERDICTS TRIALS  
DEFENSE

TRIALS DISPUTE RESOLUTION  
ADVOCACY

ARBITRATIONS APPEALS

LITIGATION CLASS ACTIONS

MEDIATION VERDICTS TRIALS  
DEFENSE

# THANK YOU TO OUR CLIENTS, COLLEAGUES AND FRIENDS

WTO owes its success to the confidence and trust you place in our lawyers, staff, and firm. We continue to work extremely hard at every step to earn and maintain your confidence.

2014 was an exciting year. The firm hired 17 new lawyers, bringing our total to 98. With this much trial and litigation strength for our clients, it is no wonder that big wins included the following:

- a complete, class action jury trial victory for Whirlpool in Ohio;
- a published Ninth Circuit opinion for Mercedes-Benz USA;
- two complete, back-to-back legal malpractice jury trial verdicts for law firm clients in five weeks;
- and, in Pennsylvania, the *Daubert* exclusion of experts from multidistrict litigation involving Pfizer's blockbuster antidepressant, Zoloft.

The following pages expand on these and many more victories that demonstrate why clients trust WTO to handle their most sensitive cases all across the country.

WTO also earned achievements outside the courtroom, including winning the Minority Corporate Counsel Association's George B. Vashon Innovator Award for firms that have "led the way with innovative best practices to assist diverse

attorneys in the legal profession." The firm was specifically recognized for the success of our Women in Leadership Lecture Series (WILLS).

Finally, 2014 was another outstanding year for the WTO Foundation, which since 2005 has positively affected thousands of lives and donated over \$1.3 million to dynamic organizations creating change in our community. The Foundation's 2014 achievements are highlighted within.

Thank you again. On behalf of the firm, we look forward to achieving great outcomes with you in 2015.



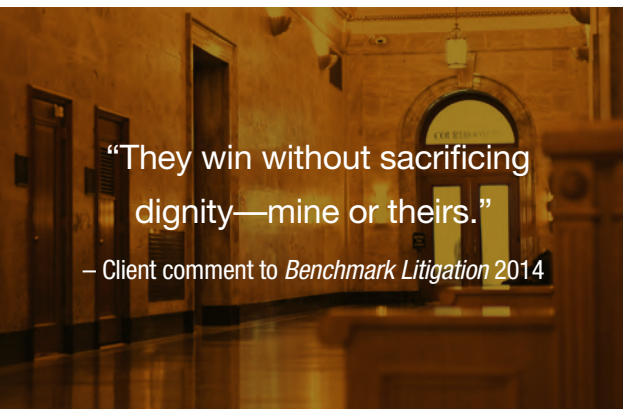
Michael O'Donnell  
Chairman



Hugh Gottschalk  
President



Carolyn Fairless  
Managing Partner



"They win without sacrificing dignity—mine or theirs."

— Client comment to *Benchmark Litigation 2014*

## TRIAL TESTED

Wheeler Trigg O'Donnell represents many of the nation's best-known organizations and professionals in civil disputes that threaten their businesses, brands, reputations, people, and relationships. Our lawyers often serve as national counsel in high-stakes trials, appeals, arbitrations, and related complex matters, including class actions, mass torts, and multidistrict litigation.

- Aerospace & Aviation
- Asbestos
- Automotive
- Banking
- Construction & Engineering
- Consumer Products
- Distribution & Franchising
- Energy
- Financial Services
- Food
- Healthcare
- Hospitality
- Industrial Equipment
- Insurance
- Legal Services
- Manufacturing
- Medical Devices
- Medical Services
- Natural Resources
- Oil & Gas
- Pharmaceuticals
- Professional Services
- Real Estate
- Shipping
- Technology & Media
- Telecommunications
- Transportation
- Trucking

# PARTNERS



Michael Alper



Scott Barker



Galen Bellamy



Miko Ando Brown



Mark Clouatre



Bryan Cross



Andrew Efav



Carolyn Fairless



Joseph Farchione



John Fitzpatrick



Hugh Gottschalk



Peter Herzog



James Hooper



Matthew Johnson



LaMar Jost



Steven Kelso



Kevin Kuhn



Raymond Martin



Craig May



Christopher Montville



Jeremy Moseley



Andrew Myers



Erik Nadolink



Habib Nasrullah



Joel Neckers



Michael O'Donnell



Kathryn Reilly



Terence Ridley



Kara Rosenthal



David Schaller



Jessica Scott



Evan Stephenson



Edward Stewart



John Streehman



Jack Trigg



Andrew Unthank



John Vaught



Tamera Westerberg



Michael Williams



Gwen Young

# LAWYER NEWS

**Peter Herzog** joined the firm as a partner in January 2015. A 1985 graduate of Washington University School of Law and former partner with Bryan Cave LLP, Peter adds his extensive experience defending corporations in consumer class actions, product liability, and complex commercial litigation to WTO's already deep bench.

**Three lawyers were promoted to partner effective January 1, 2015.**

**Christopher Montville**, a 2007 *magna cum laude* graduate of Duke University Law School, defends lawyers and law firms against legal malpractice and negligence claims and represents companies and individuals in complex commercial litigation matters.

**Kathryn Reilly**, a 2001 *cum laude* graduate of New York University School of Law, joined the firm as of counsel in 2014 and was promptly elected partner. She has extensive experience handling antitrust issues and complex business disputes, particularly in the healthcare field.

**Evan Stephenson**, a 2005 graduate of the University of Virginia School of Law, focuses his practice on insurance, bad faith, product liability, and personal injury trials and appeals.

**Four of counsel attorneys joined the firm.**

**James "Nick" Boeving**, a 2005 graduate of Columbia University School of Law and former Assistant U.S. Attorney for the Southern District of New York, practices in government investigations and complex commercial litigation.

**Andrew W. Myers**, a 2002 graduate of the University of Colorado School of Law, represents clients in complex commercial litigation and consumer class actions.

**Thomas Palazzolo**, first in his 1992 class at Washington University School of Law, focuses his practice on consumer class actions.

**Lawrence Zavadil**, a 1987 graduate from the University of Nebraska College of Law, has over 26 years of experience handling complex business litigation.

**Six associates joined the firm.**

**Robert Burk** (Colorado 2008, USDC Colorado Clerk); **Benjamin Kapnik** (George Washington 2013, Tenth Circuit Court of Appeals Clerk); **Toren Mushovic** (UCLA 2007, Navy-Marine Corps Court of Criminal Appeals Clerk); **Tommy Olsen** (Georgetown 2011, USDC Colorado Clerk); **Camille Papini-Chapla** (UC Davis 2011, Fifth Circuit Court of Appeals Clerk); **Eric Robertson** (Colorado 2011, Colorado Supreme Court Clerk).

**Six staff counsel and two legal residents joined the firm.**

**Kaitlin Akers** (Denver 2014); **Stephanie Foote** (Denver 2012); **Melanie Kay** (UC Berkeley 2006, Ninth Circuit Court of Appeals Clerk); **Lynn Kenoyer Johnson** (Maine 2000, USDC Maine and Colorado Court of Appeals Clerk); **Ruth Mackey** (UC Berkeley 2007, Colorado Supreme Court Clerk); **Natasha Schissler** (Denver 2014); **Stefania Scott** (Denver 2004, Colorado Court of Appeals Clerk); **Natalie West** (Texas, USDC ND Texas Clerk).

**SELECTED IN 2014-2015 FOR CLASS ACTIONS/MASS TORTS PRACTICE**

Scott Barker in *Best Lawyers* | John Fitzpatrick in *Best Lawyers, The Legal 500 US* | Peter Herzog in *Missouri & Kansas Super Lawyers* | James Hooper in *The Legal 500 US* | Joel Neckers in *Colorado Super Lawyers Rising Stars* | Michael O'Donnell in *The Legal 500 US* | Jessica Scott in *Colorado Super Lawyers Rising Stars* | Edward Stewart in *The Legal 500 US* | Jack Trigg in *The Legal 500 US, Colorado Super Lawyers* | Andrew Unthank in *Colorado Super Lawyers Rising Stars* | Malcolm Wheeler in *The Legal 500 US* | Michael Williams in *Benchmark Litigation, Best Lawyers, The Legal 500 US, Colorado Super Lawyers*

**SELECTED IN 2014-2015 FOR PROFESSIONAL LIABILITY – LEGAL MALPRACTICE**

Carolyn Fairless in *Benchmark Litigation, Best Lawyers, Colorado Super Lawyers* | Christopher Montville in *Colorado Super Lawyers Rising Stars* | Michael O'Donnell in *Benchmark Litigation, Best Lawyers* | Tamera Westerberg in *Colorado Super Lawyers*

**Year at a Glance****9 Complete Jury Verdicts Nationwide****7 Summary Judgment Rulings****6 Appellate Victories****1 RELENTLESS FOCUS: TRIAL EXCELLENCE****Class Actions**

**Won a complete defense jury verdict in a \$66 million washing machine** consumer class action trial in federal district court in Ohio.

**Obtained dismissal of class action allegations and 15 of 17 claims** against a Fortune 500 manufacturer in an environmental toxic tort case. The remaining two claims continue to be litigated.

**Defeated class certification for a Fortune Global 10 company** in a natural gas royalties underpayment case heard in federal court in Wyoming.

**Represent the nation's largest operator of bagel bakeries** in follow-on litigation related to the largest class action settlement in U.S. history.

*"An enviable reputation for defending high-profile class action and product liability cases."*

*—The Legal 500 US 2014*

**Represent a major commercial insurer in nationwide concussion and traumatic brain injury** class action litigation involving the National Collegiate Athletic Association, the U.S. Soccer Federation, and the National Hockey League.

**Product Liability**

**Won exclusion of plaintiffs' general causation experts** in multidistrict litigation involving more than 600 claimants alleging a popular antidepressant caused birth defects.

**Obtained summary judgment in an asbestos product liability case** for a Fortune 10 company in federal court in Wyoming.

*Chambers USA 2014* ranks WTO among the top 17 firms nationwide for Product Liability and Mass Torts.

**Represent a global healthcare company in more than 8,000 claims** relating to certain of its dialysis products.

**Represent the largest pharmaceutical distributor in North America in more than 3,000 claims** involving allegations against the popular cholesterol drug, Lipitor.

*"Deep and experienced bench advising major clients on product liability and mass torts litigation."*

*—Chambers USA 2014*

**Defended a food distributor in allegations of *Listeria* contamination** resulting in 33 deaths and 146 confirmed cases in one of the largest and deadliest food-borne illness outbreaks in the United States.

*"Unequivocally superior service with the highest level of ethics and professionalism."*

*— Client comment to Benchmark Litigation 2014*

**SELECTED IN 2014-2015 FOR PROFESSIONAL LIABILITY - MEDICAL MALPRACTICE**

Andrew Efav in *Best Lawyers* | Joseph Farchione in *Colorado Super Lawyers* | John Fitzpatrick in *Benchmark Litigation, Best Lawyers* | Kevin Kuhn in *Benchmark Litigation, Best Lawyers, Colorado Super Lawyers, 5280 Magazine* | Kara Rosenthal in *Colorado Super Lawyers Rising Stars*

**SELECTED IN 2014-2015 FOR EMPLOYMENT LITIGATION PRACTICE**

Ruth Mackey in *Colorado Super Lawyers Rising Stars* | Raymond Martin in *Best Lawyers, Chambers USA, Colorado Super Lawyers*

**Represent a Fortune 10 company as national resolution counsel** in hundreds of cases involving a medical imaging contrast agent alleged to induce a rare disease.

**Represent a medical device company as national coordinating and trial counsel** for the defense of product liability lawsuits involving a Class III medical device used to treat hearing loss.

*Chambers USA 2014 – Four WTO lawyers named Leading Individuals nationwide*

**Legal Malpractice**

**Won a complete defense jury verdict in a \$12 million legal malpractice case.** The Colorado jury found in favor of WTO's client on all claims and also awarded unpaid legal fees owed by the plaintiffs.

**Won a complete defense jury verdict in federal court in Colorado** for a large international law firm accused of malpractice. The plaintiff hired WTO's client to resolve a complex patent infringement matter, then sued the firm for negligence and breach of fiduciary duty.

*U.S. News – Best Lawyers 2014 Tier 1 Colorado Legal Malpractice Law – Defendants*

**Won summary judgment for a law firm** against claims relating to its client's \$2.5 million bankruptcy proceeding in U.S. Bankruptcy Court in Colorado.

**Methodically eliminated all legal malpractice theories asserted against a national law firm,** leaving only a counterclaim for unpaid fees. The lawsuit quickly settled.

**Won motions to dismiss in three different lawsuits** involving claims ranging from fraud, aiding and abetting, and conspiracy; to defamation under campaign finance laws; to violations of Colorado consumer protections laws.

**Medical Malpractice**

**Won an appeal argued before the Colorado Supreme Court** challenging a trial court's order to submit Quality Management Privileged materials relating to an incident at issue in a medical malpractice trial. The appellate decision is significant, as QMP designation allows hospitals and healthcare providers to assess and innovate following critical incidents without concern their discussions will be discoverable.

**Successfully defended a labor and delivery nurse before the Colorado Court of Appeals.** The Court upheld WTO's defense jury verdict in this \$17 million obstetrical malpractice matter.

**Won a complete defense jury verdict in state court in Columbus, Ohio,** in a medical malpractice case involving paraplegia allegedly resulting from failure to timely diagnose a spinal epidural abscess.

**Won a complete defense jury verdict in Minnesota** state court in a case alleging that a doctor's spinal epidural

## TRIAL TESTED

**SELECTED IN 2014-2015 FOR PRODUCT LIABILITY PRACTICE**

Michele Choe in *Colorado Super Lawyers Rising Stars* | Mark Clouatre in *Benchmark Litigation* | John Fitzpatrick in *Benchmark Litigation, Best Lawyers, Chambers USA, The Legal 500 US, Colorado Super Lawyers* | Hugh Gottschalk in *Best Lawyers* | James Hooper in *Benchmark Litigation, Best Lawyers, Chambers USA, The Legal 500 US, International Who's Who of Product Liability Defense Lawyers, International Who's Who of Life Sciences Lawyers, Colorado Super Lawyers* | LaMar Jost in *Colorado Super Lawyers Rising Stars* | Craig May in *Best Lawyers* | Andrew H. Myers in *Colorado Super Lawyers Rising Stars* | Erik Nadolink in *Colorado Super Lawyers* | Habib Nasrullah in *Benchmark Litigation, Best Lawyers, The Legal 500 US* | Michael O'Donnell in *Benchmark Litigation, Best Lawyers, The Legal 500 US, International Who's Who of Product Liability Defense Lawyers, International Who's Who of Life Sciences Lawyers, Colorado Super Lawyers* | Edward Stewart in *Benchmark Litigation, Best Lawyers, The Legal 500 US* | Jack Trigg in *Best Lawyers, Chambers USA, The Legal 500 US, International Who's Who of Product Liability Defense Lawyers, International Who's Who of Life Sciences Lawyers* | Malcolm Wheeler in *Best Lawyers, Chambers USA, The Legal 500 US, International Who's Who of Product Liability Defense Lawyers, International Who's Who of Life Sciences Lawyers* | Michael Williams in *Best Lawyers, The Legal 500 US*

## SELECTED IN 2014-2015 FOR COMMERCIAL LITIGATION PRACTICE

Scott Barker in *Benchmark Litigation, Best Lawyers, Chambers USA, Colorado Super Lawyers* | Kendra Beckwith in *Colorado Super Lawyers Rising Stars* | Miko Brown in *Colorado Super Lawyers* | Mark Cloutre in *Benchmark Litigation, Best Lawyers, Colorado Super Lawyers* | Andrew Efaw in *Colorado Super Lawyers* | Carolyn Fairless in *Best Lawyers, Chambers USA* | John Fitzpatrick in *Benchmark Litigation, Chambers USA* | Hugh Gottschalk in *Benchmark Litigation, Best Lawyers, Chambers USA, Colorado Super Lawyers* | Matthew Johnson in *Colorado Super Lawyers Rising Stars* | Steven Kelso in *Colorado Super Lawyers* | Craig May in *Colorado Super Lawyers* | Jeremy Moseley in *Colorado Super Lawyers Rising Stars* | Habib Nasrullah in *Benchmark Litigation, Best Lawyers, Colorado Super Lawyers* | Reid Neureiter in *Best Lawyers, Colorado Super Lawyers* | Michael O'Donnell in *Best Lawyers, Chambers USA* | Kathryn Reilly in *Colorado Super Lawyers Rising Stars* | David Schaller in *Colorado Super Lawyers* | Kenneth Stalzer in *Colorado Super Lawyers Rising Stars* | Edward Stewart in *Best Lawyers* | Jack Trigg in *Best Lawyers, International Who's Who of Commercial Litigation Lawyers* | John Vaught in *Best Lawyers, Colorado Super Lawyers* | Theresa Wardon in *Colorado Super Lawyers Rising Stars* | Thomas Werge in *Colorado Super Lawyers Rising Stars* | Malcolm Wheeler in *Benchmark Litigation, Chambers USA, International Who's Who of Commercial Litigation Lawyers, Colorado Super Lawyers* | Michael Williams in *Best Lawyers* | Gwen Young in *Colorado Super Lawyers* | Larry Zavadil in *Colorado Super Lawyers*

## TRIAL TESTED

### RECOGNIZED IN 2014-2015 FOR PERSONAL INJURY/TORTS PRACTICE

Michele Choe in *Colorado Super Lawyers Rising Stars* | Joseph Farchione in *Colorado Super Lawyers* | John Fitzpatrick in *Best Lawyers, Colorado Super Lawyers* | James Hooper in *Colorado Super Lawyers* | LaMar Jost in *Colorado Super Lawyers Rising Stars, 5280 Magazine* | Kevin Kuhn in *Colorado Super Lawyers* | Craig May in *Best Lawyers* | Andrew Myers in *Colorado Super Lawyers Rising Stars* | Erik Nadolink in *Colorado Super Lawyers* | Habib Nasrullah in *Benchmark Litigation* | Michael O'Donnell in *Best Lawyers, Colorado Super Lawyers, 5280 Magazine* | Stephen Oertle in *Colorado Super Lawyers Rising Stars* | Kara Rosenthal in *Colorado Super Lawyers Rising Stars* | Edward Stewart in *Best Lawyers, Colorado Super Lawyers* | Malcolm Wheeler in *Best Lawyers*

injection resulted in paraplegia. Prior to trial, the plaintiffs rejected a \$4 million offer of judgment. The jury deliberated two days, returning with a unanimous defense verdict.

*“We use WTO’s medical malpractice group to defend our toughest claims, and our hospital clients love these guys.” —Client comment to U.S. News – Best Lawyers 2014*

**Won a complete defense jury verdict in federal court in Colorado** for an emergency physician in a four-week medical malpractice trial in which the plaintiff alleged misdiagnosis leading to paralysis and asserted damage claims of \$12 million.

**Won dismissal—with costs and fees—for a child psychologist** in a case involving alleged negligence.

### Employment

**Prevailed before the Tenth Circuit for a Fortune 15 telecommunications company in an ERISA dispute.** The plaintiff requested the Court apply a new Colorado statute purporting to lower the burden of proof in asserting that our client improperly denied short-term and long-term disability benefits. The Tenth Circuit upheld the trial court’s rejection of the claims on the merits.

**Obtained dismissal of key claims in a lawsuit filed by the Equal Employment Opportunity Commission** asserting alleged violations of the Age Discrimination in Employment

Act. The action was part of the EEOC’s national campaign to limit employers’ language in separation agreements. Two central claims were dismissed outright. A third claim, which lacks broad significance for all employers, continues to be litigated.

**Obtained dismissal during trial of a sex discrimination and retaliation case** in federal court in Wyoming. At the conclusion of the first week of a two-week trial, the plaintiff agreed to dismiss the case on highly favorable terms.

*U.S. News – Best Lawyers 2014 ranks WTO nationwide for Labor & Employment Law*

**Obtained dismissal with prejudice of a race discrimination case** brought against a Fortune 100 shipping company in federal court in Colorado. The case was dismissed based on the plaintiff’s discovery misconduct.

**Successfully defended against claims of national origin and religious discrimination** filed by a former employee against a nonprofit organization. The Colorado Civil Rights Division rejected all of the plaintiff’s claims and dismissed her charges of discrimination. The organization assists foreign refugees to establish economic self-sufficiency in the U.S.

### Commercial

**Assisted a biotech company in an appellate briefing before the Federal Circuit** and won reversal of a federal district court and remand to the state court where the lawsuit was filed.

“They simply out-work and out-smart their adversaries.”

– Client comment to *U.S. News – Best Lawyers 2014*

**SELECTED IN 2014-2015 FOR OIL & GAS PRACTICE**

Scott Barker in *Who's Who in Energy – Denver, Houston*

**SELECTED IN 2014-2015 FOR INSURANCE PRACTICE**

Michael Alper in *Best Lawyers, Colorado Super Lawyers* | Habib Nasrullah in *Benchmark Litigation* | Terence Ridley in *Best Lawyers, Colorado Super Lawyers* | Evan Stephenson in *Colorado Super Lawyers Rising Stars* | John Vaught in *Best Lawyers*

**SELECTED IN 2014-2015 FOR FRANCHISE/DISTRIBUTION PRACTICE**

Mark Cloutre in *Colorado Super Lawyers* | Steven Kelso in *Colorado Super Lawyers* | Christopher Montville in *Colorado Super Lawyers Rising Stars* | David Schaller in *Colorado Super Lawyers* | John Strelman in *Colorado Super Lawyers Rising Stars* | Gwen Young in *Colorado Super Lawyers*

### *Chambers USA 2014 – Band 1 for Commercial Litigation in Colorado*

**Won a complete jury verdict for a Colorado contractor** claiming a Canadian software company failed to pay amounts due. After just 22 minutes of deliberation, the jury awarded all the damages our client requested.

### *Chambers USA 2014 – More Leading Individuals (6) for Commercial Litigation than any firm in the state*

**Successfully represented an international airport** in an administrative appeal challenging the award of a concession fee contract valued at \$50 million.

### *Benchmark Litigation 2014 Highly Recommended – Colorado*

**Won a preliminary injunction for a shopping center owner and developer** requiring an adjacent property owner to renovate the shopping center common area according to the terms of a reciprocal easement agreement.

## Oil & Gas

WTO represents oil and gas clients in high-stakes commercial, environmental, and personal injury litigation, including class actions, nationwide. Representative clients include Antelope ORRI, BP America Production, BHP Billiton, ConocoPhillips, Valero, and Vanguard Natural Resources.

**Won an arbitration award in Houston for future oil and gas royalties** valued between \$70 million and \$100 million in a *David v. Goliath* case against a multinational oil company.

**Overtured a \$4.2 million jury verdict in a Tenth Circuit appeal** for an oil and gas company client.

**Represent a Denver-based independent oil and gas exploration company** in a dispute against a Fortune 100 company related to a \$1 billion M&A transaction.

**Represent one of America's largest refining companies** in litigation against the State of Colorado involving claims in the tens of millions of dollars and alleged breaches of contract relating to the Colorado Underground Storage Tank Fund.

**Represent a privately held oil company in mass torts litigation** arising from a deadly train derailment in Lac-Mégantic, Quebec.

## Insurance

**Serve as national trial counsel to a Fortune 200 insurer** in all of its Med-Pay and PIP lawsuits nationwide.

### *U.S. News – Best Lawyers 2014 Tier 1 Colorado for Insurance Law*

**Won complete summary judgment for a major national insurer** with over \$10 million at stake in Colorado. WTO won dismissal of three claims in 2013, but a novel claim survived. Following a successful discovery sanction motion and request to reopen depositions, WTO defeated the final claim in 2014, prior to trial.

**Won a motion to dismiss on the merits** in a bad faith insurance case in which the plaintiff sought treble statutory penalties and fees. The Court ruled the insurer correctly denied coverage following a claim of negligent failure to prevent sexual assault.

## Franchise & Distribution

**Won a published Ninth Circuit opinion** for a major automotive manufacturer. The Court upheld WTO's summary judgment win at the trial court level. The opinion supported the carmaker's right of first refusal involving the sale of a dealership and established that the prospective buyer could not sue for tortious interference.

**Won a complete jury verdict for a major carmaker** in a Missouri lawsuit involving a dealer claiming damages of tens of millions of dollars. The lawsuit was unique because it was our client's first jury trial in a commercial dispute in 20 years.

**Won summary judgment from the Pennsylvania dealer board** on a franchise "line-make" issue for our automaker client. The ruling precludes potential violation of state establishment, relocation, incentive, and various antidiscrimination statutes with respect to dealers of our client's different brands.

**Prevailed after a four-week evidentiary hearing before a Texas agency**, winning a proposed decision that preserves a luxury automobile distributor's nationwide, comprehensive dealer performance bonus program. The proposed decision reverses negative trends in this area of law in Texas.

ABM Industries  
 ACE USA  
 Advanced Bionics  
 AIG  
 Allstate Insurance  
 Amica Mutual Insurance  
 Anheuser-Busch  
 Antelope ORRI  
 Assurant  
 AT&T  
 AXIS Capital  
 Beazley Group

Berkeley Medical Excess  
 Berkshire Hathaway Homestate  
 Companies  
 Berkshire Hathaway Specialty  
 Insurance  
 BHP Billiton Petroleum  
 Boston Scientific  
 BP America Production Co.  
 CenturyLink  
 Chiquita Brands  
 City of Denver  
 CNA Insurance

Coca-Cola Co.  
 CollegeAmerica  
 ConocoPhillips  
 CoorsTek  
 COPIC Insurance Co.  
 Crown Equipment  
 Dana Corporation  
 Denver International Airport  
 Dillon Companies (King Soopers)  
 Dish Network  
 Einstein Noah Restaurant Group  
 Electrolux Home Products

Encompass Insurance  
 Envision Healthcare  
 Family Dollar  
 Farmers Insurance  
 Faurecia North America  
 FedEx Freight  
 FedEx Ground Package System  
 Fiat Chrysler Automobiles  
 First American Property &  
 Casualty  
 FMC Corp.  
 Ford Motor Co.

Foster Wheeler  
 FreshPack Produce  
 Furniture Row  
 General Electric  
 GEO Group  
 Georgia-Pacific  
 Geosyntec Consultants  
 Global Aerospace  
 GMAC Insurance  
 Great-West Life & Annuity  
 Insurance  
 Guidant

GuideOne Insurance  
 American Honda Motor Co.  
 Honeywell  
 InnovAge  
 Invacare Corp.  
 IZUZU Commercial Truck of  
 America  
 Kia Motors America  
 Kubota Tractor  
 Larry H. Miller Group  
 Life Care Centers of America  
 LifePoint Hospitals

## Personal Injury Defense

**Won a defense verdict in federal court in Spokane, Washington,** in a high-exposure personal injury case involving a tractor-trailer collision.

**Obtained summary judgment for a major regional power company** in a wrongful death case in Texas.

**Obtained summary judgment just before trial** for a major facility services company, disposing of a large personal injury case in which WTO replaced existing counsel only six weeks earlier.

**Won dismissal of two cases for a premier ski resort company.** One case involved novel liability theories and resulted in a published federal court order. The other involved claims arising from an alleged collision with a ski area employee and challenged the constitutionality of Colorado law. WTO won motions to dismiss in each case.

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*The ethical rules of some state bars require us to identify this Review as advertising material, and to remind you that the case descriptions included herein are not guarantees of similar results for all clients.*

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## Pro Bono

**Obtained injunctive relief for a prisoner in claims under the Eighth Amendment** that the Bureau of Prisons had failed to keep him safe since he renounced his gang involvement. As a result of WTO's involvement, along with efforts by the Colorado Prison Law Project, our client will be kept safe from gang retribution according to the terms of the injunction.

**Negotiating access rights as part of an entitlement claim on behalf of more than two dozen families and landowners** in matters relating to a large tract of land originally administered under a land grant dating back to Spanish colonial rule in southern Colorado.

**Through Colorado Lawyers for Colorado Veterans (CLCV), WTO partner and Denver Bar Association president John Vaught** has driven the delivery of pro bono legal services to over 200 veterans seeking legal counsel all across the state of Colorado since November 1, 2013. On the strength of John's vision and recruiting, CLCV has attracted 56 volunteer lawyers during that time, on top of the 250 already involved. In the past year, CLCV volunteer lawyers have taken on 104 pro bono cases for veterans. Individually, John has volunteered over 300 pro bono hours since November 1, 2013.

## RECOGNITIONS

In January, 2015, *Benchmark Litigation* named WTO the Colorado Firm of the Year for "the gravitas of [our] case matters during 2014, including potential precedent set or verdicts with notably high dollar amounts at stake."

*Benchmark Litigation* 2015 ranked WTO in Tier 2 nationwide for Product Liability Defense, putting us among the top 24 firms in the nation, and named WTO among its top seven highly recommended Colorado litigation firms. It named **Carolyn Fairless** to its Top 250 Women in Litigation list and includes 12 other WTO partners—**Scott Barker, Mark Cloutre, Carolyn**

**Fairless, John Fitzpatrick, Hugh Gottschalk, James Hooper, Kevin Kuhn, Habib Nasrullah, Michael O'Donnell, Edward Stewart, Malcolm Wheeler, and Michael Williams**—on its list of 53 Colorado Litigation Stars.

*Chambers USA* 2014 ranks WTO among the top 17 firms nationally in product liability, among the top three firms for Colorado commercial litigation, and lists **Scott Barker, Carolyn Fairless, John Fitzpatrick, Hugh Gottschalk, James Hooper, Ray Martin, Michael O'Donnell, Jack Trigg, and Malcolm Wheeler.**

*U.S. News – Best Lawyers* ranked WTO in Tier 1 in Colorado in 10 litigation practice areas.

The list of *Colorado Super Lawyers*<sup>®</sup> selected in 2014 and published in March 2015 includes 29 WTO lawyers, 15 of whom are on the top-100 list, three of whom are on the top-50 women lawyers list, and **Michael O'Donnell** as the # 1 ranked lawyer in Colorado for the third consecutive year. The top-50 women lawyers are **Carolyn Fairless** (also on the top 100), **Gwen Young, and Tammy Westenberg.** The remaining top-100 lawyers include **Scott Barker, Mark Cloutre, Andrew Efaw, John Fitzpatrick, Hugh Gottschalk, Kevin Kuhn, Raymond Martin, Craig May, Habib Nasrullah, Terence Ridley, Edward Stewart, John Vaught, and Malcolm Wheeler.**

*Best Lawyers* selected three WTO attorneys as lawyers of the year for 2015: **Michael Alper** for Denver insurance litigation, **Craig May** for Denver product liability litigation, and **Michael O'Donnell** for Denver personal injury defense litigation.

The *Legal 500 U.S.* 2014 ranks WTO among the top six firms nationally in product liability and mass tort defense for automotive



Lockheed Martin  
Los Angeles Department of Water  
& Power  
Marriott Hotel Services  
Maytag  
McKesson Corp.  
Media News Group  
Medical Protective  
MedStar Health  
Memorial Hospital (CO)  
Memorial Medical Center (NH)  
Mercedes-Benz USA

Meritain Health  
MetLife  
Mitsubishi Motors North America  
Motor Coach Industries  
Munich Reinsurance  
MWH Global  
Nationwide Insurance  
Nissan North America  
Noble Energy  
Northrop Grumman  
OneBeacon Professional  
Insurance

PACCAR Inc.  
Pediatrix Medical Group  
PepsiCo  
Pilot Flying J  
Pfizer  
PNC Mortgage  
Premier Insurance  
Presbyterian Hospital Services (NM)  
QEP Resources  
QFA Royalties (Quiznos)  
Quest Diagnostics  
Red Bull

Red Robin Gourmet Burgers  
San Juan Regional Medical  
Center (NM)  
Sears Roebuck & Co.  
Smashburger  
Steak 'n Shake  
Suncor Energy  
Swiss Re  
Terex  
Tesco Corp.  
The Hartford Insurance Group  
The Ritz-Carlton, Denver

Toyota Motor Sales U.S.  
Tracker Resources  
TransGuard Insurance  
TransMontaigne  
Travelers  
U-Haul  
United Airlines  
United Continental Holdings  
Universal Health Services  
University of Colorado  
United States Automobile  
Association

Vail Resorts  
Vanguard Natural Resources  
Velan Valve  
Vestas Wind Systems  
Western Litigation  
Westport Insurance  
Whirlpool Corp.  
WhiteWave Foods  
Xcel Energy  
Yum! Brands (Pizza Hut)

and transport, among the top 14 firms nationally in product liability and mass tort defense for consumer products, and among the top 30 firms nationally in product liability and mass tort defense for pharmaceuticals and medical devices. The directory recommends [John Fitzpatrick](#), [James Hooper](#), [Habib Nasrullah](#), [Michael O'Donnell](#), [Edward Stewart](#), [Jack Trigg](#), and [Michael Williams](#).

[Michael O'Donnell](#) was inducted as a Fellow in the International Academy of Trial Lawyers. He joins [Malcolm Wheeler](#) in this elite group of trial lawyers.

During 2014, *Law Week Colorado* selected [Carolyn Fairless](#) as a Lawyer of the Year, [Miko Brown](#) as a Top Woman Lawyer, and [Nathan Murphy](#) as an Up-and-Coming Lawyer.

*5280 Magazine's* 2015 Top Lawyers issue included [LaMar Jost](#) for personal injury defense, [Kevin Kuhn](#) for medical malpractice defense, and [Michael O'Donnell](#) for civil litigation and personal injury defense.

**Winner, Minority Corporate Counsel Association George B. Vashon Innovator Award**—In June, MCCA recognized WTO for leading the way nationally with “innovative best practices to assist diverse attorneys in the legal profession.” At the center of the honor is WTO’s Women in Leadership Lecture Series (WILLS), which helps women lawyers develop clients and identify mentors and sponsors. The result over the past two years has been to create a culture at WTO and in the community in which women trial lawyers flourish. Partner [Miko Brown](#) accepted the award for WTO at a gala event in Washington, D.C. Upon receiving the award, [Brown](#) said, “WILLS

**makes a meaningful difference in the lives and practices of women attorneys at WTO and in the legal community. This award is a true honor.”**

## PUBLIC SERVICE

Many WTO lawyers serve on boards of directors of nonprofit organizations and perform other public service.

[John Vaught](#) began his term as president of the Denver Bar Association on July 1, 2014.

[Carolyn Fairless](#) was selected to the Colorado Bar Association’s Ethics Committee.

[Jack Trigg](#) joined the University of Denver Strategic Issues Panel on Legislative Accountability.

[Elizabeth Johnston](#) was voted onto the board of directors of Susan G. Komen Colorado.

[Mark Clouatre](#) was appointed to the Diversity Caucus Steering Committee of the American Bar Association’s Forum on Franchising.

[Kevin Kuhn](#) was appointed to the Editorial Board for the *American College of Trial Lawyers Journal* and joined the University of Denver Healthcare Symposium Group, chaired by Dean Emeritus [Ed Dauer](#), which addresses new legislation affecting hospitals and healthcare providers across Colorado and the nation.

[Reid Neureiter](#) was appointed to his second three-year term on the U.S. District Court’s Committee on Conduct and was named vice-chair of the committee.

[Terence Ridley](#) was appointed Chairperson of the Class Action and Multidistrict Litigation Section of the Federation of Defense and Corporate Counsel.

[Toren Mushovic](#) joined the board of directors for SungateKids, which advocates for victims of child abuse and coordinates services and efforts among the many departments and agencies working with its clients.



“The most efficient and effective litigation attorneys I have worked with in over 20 years.”

— Client comment  
to *U.S. News – Best Lawyers 2014*

# Wheeler Trigg O'Donnell FOUNDATION

The Wheeler Trigg O'Donnell Foundation (WTOF) was established in September of 2005 to provide, through charitable activities and programs, opportunities for current and former Wheeler Trigg O'Donnell LLP (WTO) lawyers, staff, and their families to build a caring community and to reach out to others.

Since it was established, the Foundation has donated over \$1.3 million and thousands of hours of volunteer time to various nonprofit organizations working in the areas of legal services, education, homelessness and poverty, youth services, hunger, animal protection, disease treatment and prevention, military veterans, and arts and culture.

## 2014 HIGHLIGHTS

**Denver Public Schools Foundation** resources and champions public education to help every child succeed. WTOF started a partnership with a DPS elementary school and provides 17 volunteer tutors who are virtually paired with first-graders on a weekly basis to help them learn to read.

**The Gathering Place** is Denver's only daytime shelter for women and children experiencing homelessness and poverty. An ever-changing cadre of volunteers cooked and served hot breakfasts to more than 100 women and children on each of six mornings in the past year. In March, WTOF also hosted a peanut butter and jelly donation-based yoga class to help stock TGP's pantry. In September, WTOF participated in Construction, a fundraiser in which teams built colossal structures made entirely of cans of food that were donated to TGP.

**Metro CareRing** operates one of the largest food pantries in Denver. WTO raised \$19,237 in cash and nonperishable food items in the Denver Bar Association's annual citywide law firm donation drive.

**Legal Aid Foundation of Colorado** raises money to provide free legal assistance to low-income Coloradans facing civil legal problems. WTO's non-partner lawyers donated over \$10,500 to a successful citywide law firm associates' fundraising campaign.

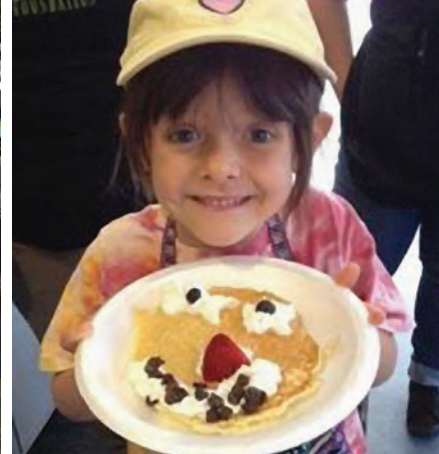
**Denver Dumb Friends League** rescues, shelters, and adopts out injured, abused, and neglected animals. WTOF volunteers raised over \$9,130 and walked with family, friends, and pets as a team in the Furry Scurry.

**Movember Foundation** raises funds to treat and prevent prostate cancer. WTO personnel donned mustaches to raise awareness and money at our third annual Movember mustache fundraiser.

**Denver Urban Debate League** helps students in Denver urban schools build academic and life skills through debate. WTOF co-sponsored the city championship and volunteers assisted as debate coaches and judges.

**Denver Kids, Inc.** offers one-to-one counseling and mentoring to help at-risk K-12 Denver Public School students graduate from high school. WTOF recruits mentors and facilitated a \$25,000 donation to DKF from the **Walking for Kids Foundation**, which raises money to help children of all ages overcome setbacks to realize and live out their dreams and goals. Walking for Kids was co-founded by DJ Gregory, who suffers from cerebral palsy and walked all 3,256 holes of the 2008 PGA tour, and WTO Chairman Michael O'Donnell.





**WeeCycle** provides new and gently-used baby gear to low-income Denver families. WTO collected money and baby items for a drive hosted by the CBA and DBA Young Lawyers Divisions.

**The Ride to Conquer Cancer** raises funds for cancer research in multiple leading hospitals. WTO personnel and WTOF helped raise over \$16,000 to support a WTO lawyer who raced in memory of her niece and in honor of her father.

In 2014, WTOF donated over \$226,000 to more than 90 nonprofit organizations, including the following:

ACLU Foundation of Colorado | Alpine Rescue Team | ALS Association | Alzheimer's Association | American Civil Liberties Union | American College of Trial Lawyers Foundation | Animal Rescue of the Rockies | Arapahoe High School | ArtStart | Arvada Community Food Bank | Asian Pacific American Bar Foundation | Big Brothers Big Sisters of America | Bob Woodruff Foundation | Boy Scouts of America | CaringBridge | Cat Care Society | Center for Legal Inclusiveness | Central Visitation Program | Children International | Colorado Asian Pacific American Bar Foundation | Colorado Bar Foundation | Colorado Children's Hospital Courage Classic | Colorado Civil Justice League | Colorado Coalition for the Homeless | Colorado Fourteeners Initiative | Colorado GLBT Bar Association | Colorado Judicial Institute | Colorado Law Classic | Colorado Neurological Institute | Colorado Pet Pantry | Colorado Trout Unlimited | Colorado Women's Bar Association | Cure SMA | Denver Active 20-30 | Denver Area Youth for Christ | Denver Bar Foundation | Denver CASA | Denver Dumb Friends League |

Denver Kids, Inc. | Denver Museum of Nature and Science | Denver Police Foundation | Denver Rescue Mission | Denver Urban Debate League | Evergreen Animal Protective League | Florence Crittenton Services of Colorado | Food Bank of the Rockies | Habitat for Humanity | Homeless Outreach Providing Encouragement | Invest in Kids | Johns Hopkins Kimmel Cancer Center | Legal Aid Foundation of Colorado | Lois Lenski Elementary School | Make-a-Wish Foundation | MaxFund Animal Adoption Center | Mental Health America of Colorado | Metro CareRing | Metro Volunteers | Michigan Humane Society | Miners Alley Playhouse | Minority Corporate Counsel Association | MishaMay Foundation | Movember Foundation | National Alliance on Mental Illness | National Audubon Society | National Jewish Health | National Mill Dog Rescue | Open Door Ministries | Paralyzed Veterans of America | Phoenix Children's Hospital | Project Angel Heart | Project C.U.R.E. | Project Greer Street | Reach Out and Read Colorado | Riley Children's Foundation | Rocky Mountain Children's Law Center | Ronald McDonald House Charities of Denver | Saint Mary's Academy of the Sisters of Loretto | Sam Cary Scholarship Endowment Fund | Spina Bifida Foundation | St. Francis Center | Stories on Stage | Susan G. Komen Colorado | The Bridge Project | The Denver Foundation | The Gathering Place | The Logan School | Travelers Community Connections | Underwearness, Inc. | University of Colorado | University of Colorado School of Law | University of Denver | University of Denver Sturm College of Law | Walking for Kids Foundation | WeeCycle | Whirlpool Collective Impact Fund | Women's Bean Project | Wounded Warrior Project



For more information on the WTO Foundation, visit us at <http://www.wtotrial.com/Foundation.aspx> or snap the QR code with your smartphone.



Visit us on Facebook at [Wheeler Trigg O'Donnell Foundation](https://www.facebook.com/WheelerTriggO'DonnellFoundation)

“No firm gets better results year after year.”

– Client comment to *U.S. News – Best Lawyers* 2014



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