



Wheeler Trigg O'Donnell LLP

TRIALS. LITIGATION. APPEALS.

2019-2020 IN REVIEW



“They always deliver.”

— Client comment to *Chambers USA*

DEAR CLIENTS, COLLEAGUES & FRIENDS

In 2019 and 2020, you turned to WTO to handle your most sensitive matters amid unprecedented legal and business challenges. We are proud to be your trusted partner in litigation.

From pioneering new solutions to pandemic-related issues, to resolving bet-the-company disputes, you chose WTO to handle significant matters across the nation—with exceptional results. Recent highlights include:

- 118 remote oral arguments in 2020
- 21 trials and arbitrations in 2019 and 2020
- 10 appeals in 4 states in 2019 and 2020

WTO also reached new heights in the industry—winning recognition for our successes in civil litigation:

- 1 of the Top 14 “Most Feared” Firms, *BTI Consulting Litigation Outlook 2020*—based exclusively on input from in-house counsel.
- Ranked among the Top 10 Consumer Class Action Defense firms in the U.S. by *Chambers USA 2020*.
- 1 of 7 finalists, *The American Lawyer* National Litigation Boutique of the Year 2019.

Thank you for the trust and confidence you place in us. We look forward to serving you in the years ahead.

Carolyn Fairless, Co-Managing Partner | Michael O'Donnell, Chairman | Michael Williams, Co-Managing Partner

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.

Wheeler Trigg O'Donnell Management Committee
Joseph Farchione, Kathryn Reilly, Michael O'Donnell, Carolyn Fairless,
and Michael Williams

“At the core of industry-changing matters.”

— *The American Lawyer*

TRIALS. LITIGATION. APPEALS.

Wheeler Trigg O'Donnell represents sophisticated clients in high-stakes civil trials, arbitrations, appeals, and related matters, including class actions, mass torts, and multidistrict litigation.

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

“They are relentless, very smart, and play to win—and win big.”

— BTI Consulting

2019-20 HIGHLIGHTS

100

ATTORNEYS

21

TRIALS &
ARBITRATIONS

10

APPEALS

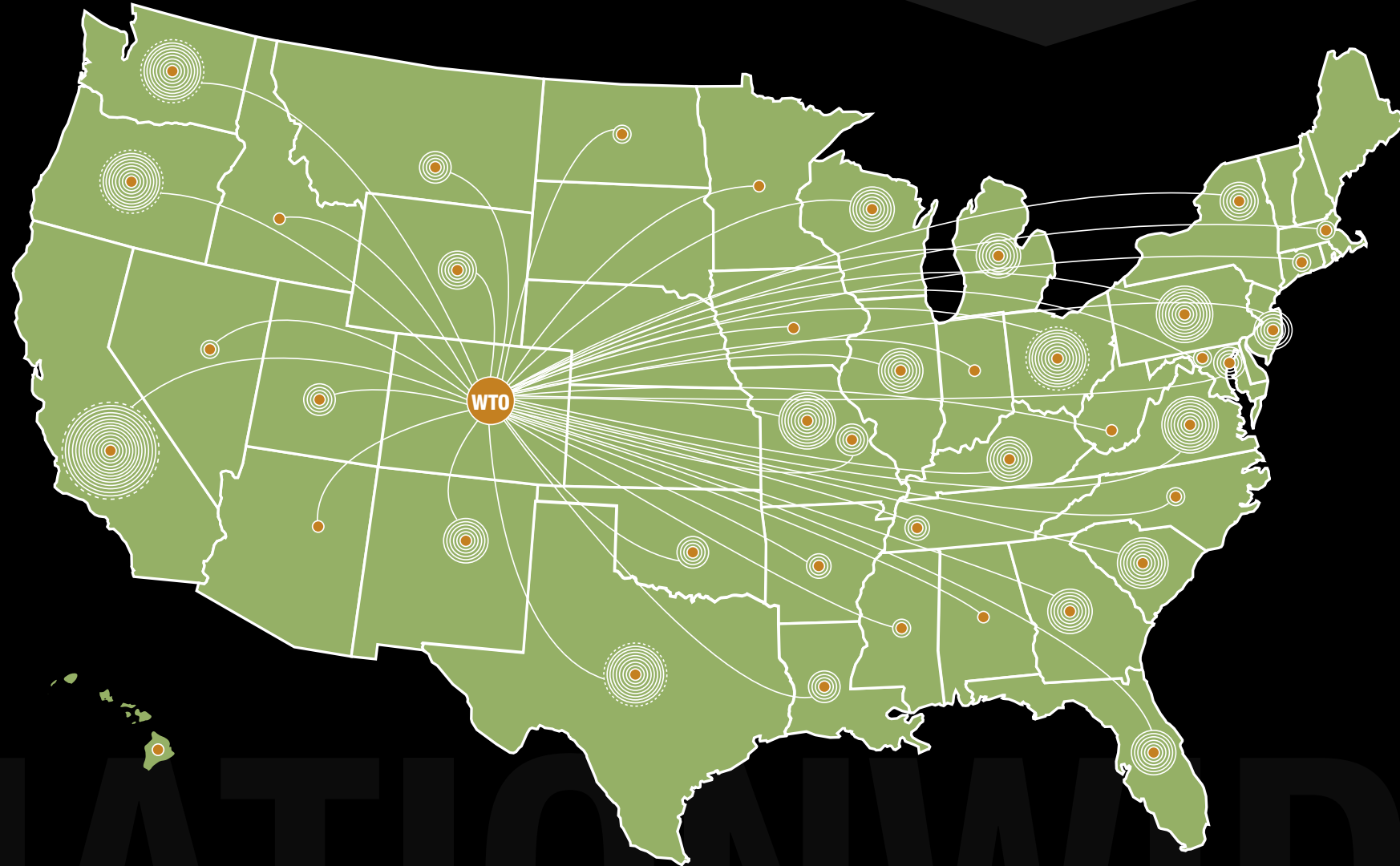
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FELLOWS OF THE
AMERICAN COLLEGE
OF TRIAL LAWYERS

NATIONWIDE EXPERIENCE

“Stellar
litigators.”

– Benchmark Litigation



REPRESENTATIVE CLIENTS

Admiral Beverage Corp.	Berkshire Hathaway Homestate	Delta Montrose Electric Association	Johns Manville	Ovintiv Inc.	Universal Health Services
Advanced Bionics	BMW Manufacturing Co.	Electrolux Home Products	Larry H. Miller Group	Pfizer	University of Colorado Hospital
AEGIS Insurance Services	Brake Parts Inc.	Empower Retirement	LifePoint Health	Physicians Insurance	Vail Resorts
AIG	Brookfield Properties	Expedia Group	Linamar Corporation	PNC Bank N.A.	Vega Architecture
Aimco	Brown Bottling Group	Ford Motor Co.	Lowes Enterprises	Pneumo Abex	Veolia North America
Air Communities	Center for Excellence in Higher Education (f/k/a CollegeAmerica)	Foster Wheeler	Lumen Technologies (f/k/a CenturyLink)	Premier Insurance	Vestas Wind Systems
Air Methods Corp.	City & County of Denver	Frias Transportation Management	MacDon, Inc.	Quest Diagnostics	Volvo Cars of North America
Air Products & Chemicals	CNA Insurance	Furniture Row	Marlette Funding Services	SCL Health	
Allied World National Assurance	Constellation Insurance	General Electric	Marriott Hotel Services	Skyjack	
Allstate Insurance	CoorsTek	Guzman Energy	Marriott Hotel Services	Steamboat Ski & Resort Corp.	
Alterra Mountain Company	COPIC Insurance	Haier US Appliance Solutions, Inc. (d/b/a GE Appliances)	McKesson	Suncor Energy	
American Medical Response	Crane Co.	Hanover Insurance	McLane Company	Superior Energy Services	
Arrow Electronics	Crestone Peak Resources	Heska Corp.	MedPro Group	The Doctors Company	
Assurant	Cross River Bank	Hillsdale College	MedStar Health	The Sherwin-Williams Co.	
Auto-Owners Insurance	Danone US LLC	Holiday Retirement	Medtronic	Toyota Motor Sales USA	
BP America	Denver International Airport	IBM	Merz North America	TransMontaigne Product Services	
Beaumont Health	DISH Network	Independent Bottlers Association	Michelin North America	United Power	
Beazley Group	Electric Insurance	Ironshore Insurance	Miller Electric Mfg. MMIC Group	United Services Automobile Association	
		Illinois Tool Works Inc.	MWH Global	United States Aircraft Insurance Group	
		JLG Industries	NGL Energy Partners		
		Jushi Inc.	Noble Energy		
			Northstar Rx		
			Oshkosh Corp.		

NATIONWIDE

TALENT AT WTO

New Partners



Juan Ramirez



Frederick Yarger



James (Nick) Boeving



Webster Cash



Kate Mercer-Lawson



Tommy Olsen



Jennifer Parker



Eric Robertson



Marissa Ronk

“[WTO] always seems able to add not just more people but really strong people for whatever needs arise.”

— Corporate Counsel, Fortune 100 Client

WTO attracts and develops the nation’s best, brightest, and most creative trial lawyers and litigators.

Lateral partners Juan Ramirez and Frederick Yarger joined WTO in 2020.

Juan Ramirez brings more than a decade of experience overseeing global litigation for two Fortune 500 companies. His expertise enhances WTO’s services in commercial litigation, class actions, and product liability defense. Juan earned his J.D. from the University of Wisconsin in 2002.

The former Solicitor General of Colorado, **Frederick Yarger** brings exceptional appellate and commercial litigation experience to WTO. Fred has appeared as counsel of record before the U.S. Supreme Court more than 20 times. He earned his J.D. from the University of Chicago in 2007.

WTO’s partnership also elected seven new partners.

James (Nick) Boeving Investigations & Compliance, Professional Liability – Former Asst. U.S. Atty. – 2nd Cir. Clerk, 8th Cir. Clerk, Columbia 2005

Webster Cash Complex Commercial – Colo. Supreme Court Clerk, Colo. Ct. App. Clerk, Denver 2011

Kate Mercer-Lawson Product Liability, Personal Injury – 3rd Cir. Clerk, S.D. Indiana Clerk, Indiana 2011

Tommy Olsen Complex Commercial – D. Colo. Clerk, Chicago 2007

Jennifer Parker Professional Liability, Personal Injury – Colo. Supreme Ct. Clerk, 20th Jud. Dist. Ct. Colo. Clerk, Texas Christian University 2011

Eric Robertson Class Actions, Complex Commercial – Colo. Supreme Ct. Clerk, Colo. Ct. App. Clerk, Colorado 2011

Marissa Ronk Complex Commercial, Product Liability – E. D. Wisc. Clerk, Harvard 2011

13 attorneys joined WTO as of counsel or associates.

OF COUNSEL

Clarissa Collier Wyoming 2008

Meghan Frei Berglind Cornell 2000

Rebecca Graves Payne Washington and Lee 1992 – D. Colo. Clerk

Ryan Cooke Georgetown 2016 – 6th Cir. Clerk

Daniel Guisbond Fordham 2010

Kevin Havelda Kentucky 2015 – E.D. & W.D. Kentucky Clerk

Nicole Jones Denver 2017 – Colo. Supreme Court, D. Colo., Colo. Ct. App. Clerk

Adrienne Rosenbluth Chicago 2016 – N.D. Illinois Clerk

Matthew Rotbart NYU 2013 – D. Mass. Clerk

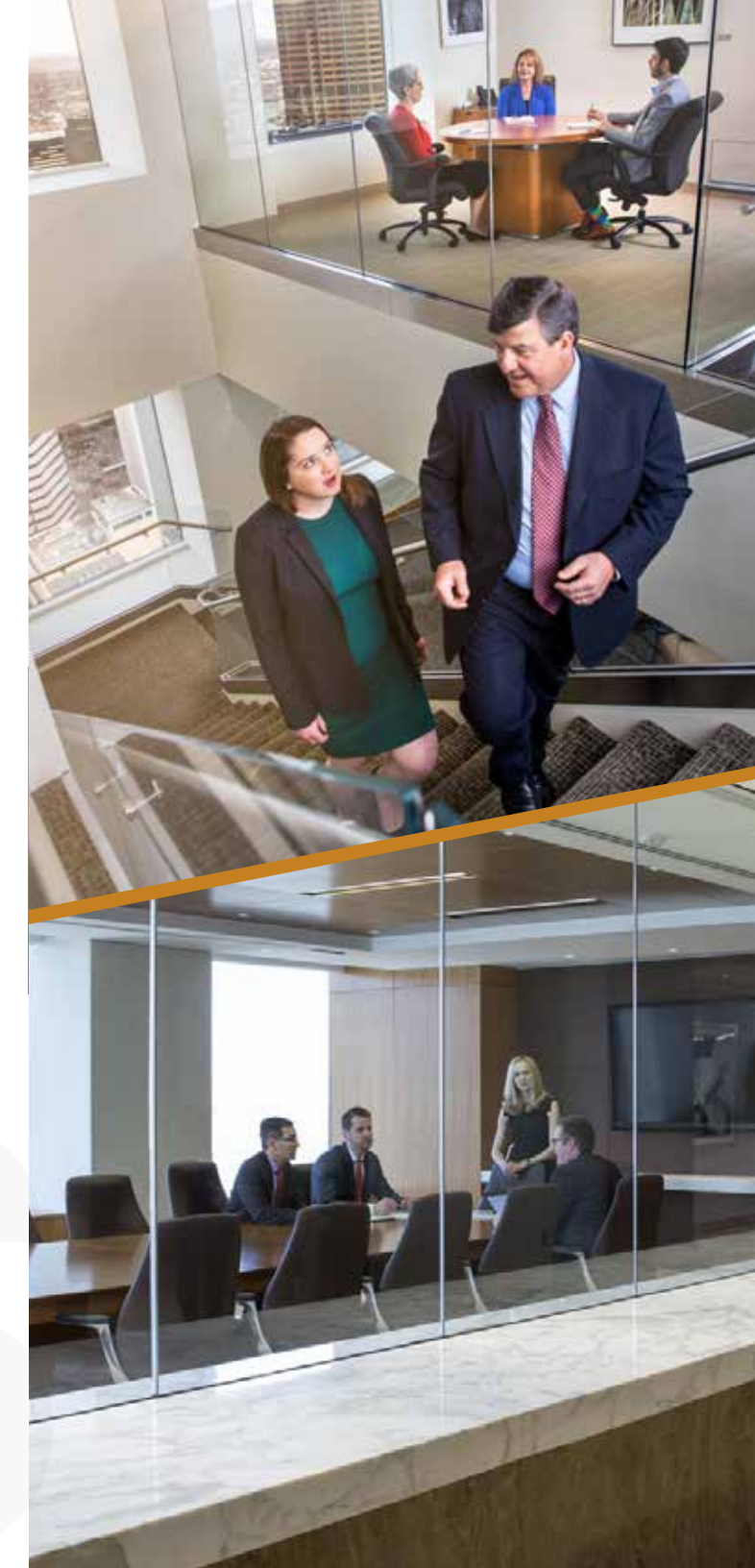
Brian Ruocco University of Pennsylvania 2017 – 6th Cir. Clerk, D. New Jersey Clerk

ASSOCIATES

Annie Anderson Washington and Lee 2017 – Colo. Ct. App. Clerk

Harold Baker Ohio 2017 – S.D. Ohio Clerk

Christopher Byer Virginia 2018 – 2nd Jud. Dist. Ct. Colo. Clerk





REPRESENTATIONS

“Brings calm to the chaos of high-stakes litigation.”

— Client comment to *Chambers USA*

REMOTE TRIALS & ARGUMENTS

Won a \$1.25B fee dispute in one of the first remote trials in the COVID-19 era for an electric company against its generation and transmission distributor.

Won a trial for a commercial property management company in a dispute involving a marijuana growing facility. Trial began in person in March 2020, was interrupted by the pandemic, and concluded remotely in July 2020.

Argued remotely and won reversal of a \$15M medical malpractice jury verdict in the Colorado Court of Appeals.

Won a remote trial in a federal pro bono case for a foreign national who asserted violations of international kidnapping protections under the Hague Convention.

Argued remotely and won summary judgment for an agricultural equipment manufacturer against significant personal injury claims.

Won a four-day virtual preliminary injunction hearing for two former key employees of a national bank.

COMPLEX COMMERCIAL

Won a trial as co-counsel in a \$75M dispute for a large financial services provider over the company's allegedly excessive fees.

Representing a party in the \$2B Denver Broncos ownership dispute. Trial is set for 2021.

Won a second unanimous jury verdict for a leading auto-parts manufacturer in an 11-year-old breach of contract dispute in federal court in Kentucky.

Won a trial for two estate creditors accused of colluding with an estate representative to defraud the primary beneficiary.

Defending a Fortune 500 utility company in **federal antitrust class action lawsuits with \$2B at stake.**

Won summary judgment for an oil and gas company against a municipality's \$600M lawsuit challenging several of the company's strategic oil and gas leases.

Negotiated landmark settlement for a New Jersey bank in “true lender” litigation brought by the State of Colorado that threatened the viability of the multibillion-dollar fintech consumer lending industry.

Won complete victory for a liberal arts college in a **nationally watched dispute over the misuse of a deceased alumni's \$5M donation.**

COVID-19 LITIGATION

Representing a major North American resort owner and operator in multiple consumer class actions seeking refunds following the closure of ski resorts during COVID-19.

Won voluntary dismissal of putative class action claims arising from COVID-19-related spa closures for one of the nation's largest health and wellness franchisors.

Defending a large health system against one of the first U.S. claims involving a COVID-19-related patient death.

Defended a Fortune 50 company facing personal injury and employment claims after a COVID-19 outbreak.

Representing a national dermatology practice against wrongful termination and breach of contract claims related to a COVID-19 office closure.

Representing a global commercial real estate company in issues including foreclosures and guaranty agreements related to the COVID-19 economic downturn.

APPELLATE

Won the appeal to end a bitter ownership fight for a \$1B oil and gas company.

Won Montana Supreme Court victory for a health system in a putative consumer class action that challenged a practice of issuing refunds via pre-paid debit cards.

Won affirmance of WTO's trial victory for IBM Corp. in a \$6.1M municipal tax dispute.

Representing a Colorado electric distributor in an appeal of a fee dispute worth over \$1B.

Representing a temporary staffing agency in the appeal of the largest individual personal injury judgment in Colorado history.

Leading the Tenth Circuit appeal in a property dispute that raises important legal and constitutional issues for western landowners and conservation groups.

Preserved exclusive rights for independent soft drink distributors in a Second Circuit appeal with billions of dollars at stake across the industry.

CLASS ACTIONS & MDL

Serving as liaison counsel to all distributor defendants in federal multidistrict vaping litigation in California. WTO is also lead counsel to the largest distributor defendant.

Serving as national coordinating counsel to a Fortune 100 company for FLSA collective actions and individual and class wage-and-hour claims.

Won summary judgment for Whirlpool in a certified, seven-state class action in New Jersey seeking up to \$35M in damages.

Defeated class certification for Electrolux in a consolidated putative class action in Illinois involving millions of dishwashers.

Won Ninth Circuit approval of class settlement and vacatur of a \$15M attorneys' fee award in a consumer class action for Whirlpool.

Defeated class certification in a case alleging false advertising of an innovative self-cleaning oven technology.

CATASTROPHIC TORTS

Defending a global manufacturer of construction equipment in all product liability and personal injury litigation in the U.S.

Defending against more than \$100M in alleged product liability claims as national counsel to a major manufacturer.

Serving as national coordinating counsel for a manufacturer facing more than 10,000 active asbestos lawsuits.

Represented an international company in catastrophic trucking litigation claims across a 7-state region.

Defending a major utility company against millions of dollars in alleged damages arising out of stray voltage claims.

Representing a medical device manufacturer as national counsel against product liability claims involving dermatological treatments and corresponding reputational attacks.

“WTO cranks on all cylinders.”

— Corporate Counsel, Fortune 100 Client

REPRESENTATIONS



REPRESENTAT

PROFESSIONAL LIABILITY

Won a defense jury verdict in Iowa for an obstetrician accused of negligence during the delivery of a baby born with severe physical and cognitive deficits.

Won a defense verdict in a three-week, \$14M jury trial in Detroit for a hospital following a patient's cardiac arrest and alleged brain injury.

Defending a national law firm against \$500M in claims of aiding and abetting.

Won a 15-day arbitration for a law firm in a malpractice case arising out of a construction-defect lawsuit.

Argued and won a motion to dismiss \$150M malpractice claims brought in Nevada against an AmLaw 200 firm and arising from an underlying tax opinion.

Won a motion to dismiss \$20M malpractice claims brought in Connecticut against an AmLaw 200 firm.

Briefed a successful Tenth Circuit appeal for an AmLaw 100 firm.

Representing numerous hospitals and healthcare providers in cases involving alleged medical malpractice, negligent credentialing, consumer fraud, physical abuse, and personal injury claims.

EMPLOYMENT

Won a jury verdict for a higher education institution against a former employee who broke a settlement agreement.

Won an arbitration for a Fortune 100 company against improper termination and breach of contract claims.

Won summary judgment for a multinational corporation in a federal, putative class action in New Mexico alleging employment misclassification.

Won dismissal with prejudice in a putative wage-and-hour class action in Kentucky.

Successfully opposed conditional certification of an FLSA collective action and won summary judgment against the named plaintiff for a national transportation company.

Successfully **resolved sexual harassment claims** against a national non-profit that works extensively with a prominent international professional sports organization.

Defending the parent company of a professional basketball team against claims of racial harassment and discrimination.

PRO BONO

Filed a U.S. Supreme Court amicus brief in a high-profile voting rights case for state legislative leaders.

Won asylum for two applicants in federal immigration court after an evidentiary merits hearing.

Drafted a successful amicus petition to the Colorado Supreme Court for a state agency and a bar association in support of a private party's petition for certiorari.

Representing a woman who was pregnant during an encounter with the sheriff's department in a civil rights case involving excessive use of force.

Obtained humanitarian parole from ICE detention for a transgender woman seeking asylum.

Representing a Venezuelan family that spoke out against their government in an asylum case.

**SERVICE
THAT RAISES
EXPECTATIONS**

**“The secret is in
the client service.”**

—BTI Consulting

DIVERSITY, EQUITY & INCLUSION INITIATIVES

WTO launched several new initiatives, and continued many more, to advance diversity, equity, and inclusion in our firm and the legal industry.

WTO co-founded the Denver Law Firm Coalition for Racial Equity to advance opportunities for diverse attorneys within Denver's legal community.

WTO joined the Law Firm Antiracism Alliance (LFAA), comprised of the nation's leading law firms committed to helping dismantle barriers.

WTO is active in the Leadership Council on Legal Diversity (LCLD), a national leadership organization for diverse attorneys. Through LCLD, Co-Managing Partner Michael Williams has publicly pledged to advance diversity efforts at WTO.

WTO participates in the Colorado Pledge to Diversity, which matches first-year law students with 1L summer clerkships. WTO also launched a 2L summer clerkship program.

Firm training: WTO hired consultants and speakers to provide trainings, including sex-based harassment, unconscious bias, and leadership and management sessions.

Colorado General Counsel Mentor Program: Diverse and women attorneys from WTO participate in this year-long networking program.

WTO supports, and WTO lawyers mentor with, **Law School . . . Yes We Can!**, a program that encourages diverse high school and college students to consider careers in the law.

SPOTLIGHT: WTO & IAALS

WTO has steadily identified and hired more highly qualified diverse and women attorneys. Why?

The Survey: In 2016, WTO and the Institute for the Advancement of the American Legal System (IAALS) surveyed our partners on the characteristics young lawyers most need to succeed at WTO. The findings were powerful.

Unique Results: Faced with myriad choices, WTO partners overwhelmingly prioritized five key qualities:

1. A Strong Moral Compass
2. Teamwork
3. Individual Ownership
4. Commitment to Excellence
5. Passion for the Work

Outcome: WTO adopted a behavior-based interview format to identify these qualities—in contrast to traditional models focusing solely on “pedigree and fit.”

Resulting hires have been more diverse.

What's Next? WTO has applied a similar, behavior-based approach to lawyer reviews to disrupt implicit bias and avoid its possible effects on retention, promotion, and advancement.



“They see the big picture.”

— Client comment to *Chambers USA*



Lunch Provided By PUBLIC SERVICE

Numerous WTO lawyers serve on boards of legal and civic organizations or otherwise contribute their talents to the community.

“I like helping underdogs, kids who have the odds stacked against them but are determined to be more than their circumstances. That’s inspiring.”

— Katie Reilly, WTO Partner
& Management Committee Member



The following is a sampling of the contributions WTO attorneys made in the past year.

CiCi Cheng Board of Directors, Immediate Past President, Colorado Pledge to Diversity; Board Member, Faculty of Federal Advocates.

Michele Choe Vice President, Colorado Defense Lawyers Association; will become President in 2021.

Clarissa Collier Board of Directors, Ray of Hope Cancer Foundation; recently elected Chair of the Board.

Carolyn Fairless Colorado Supreme Court Judicial Nominating Commission; Member, American Bar Association Standing Committee on Lawyers’ Professional Liability.

William Hauptman Member, Colorado Bar Association Ethics Committee; Executive Committee of the Minoru Yasui Inn of Court.

LaMar Jost Program Chair, Colorado chapter of SOLACE, “Support of Lawyers/Legal Personnel – All Concern Encouraged.”

Kevin Kuhn Colorado State Co-Chair of the International Academy of Trial Lawyers; Board of Directors to the Catholic Lawyers Guild.

Craig May Executive Committee, Doyle Inn of Court; Board of Directors of the Association of Ski Defense Attorneys; Catalyst Committee to the Public Education & Business Coalition.

Kate Mercer-Lawson University of Denver Law School Professional Mentor.

Joel Neckers Chair of the Board for the Colorado Coalition for the Homeless.

Michael O’Donnell President-Elect, American College of Trial Lawyers; Founding Board Member, Walking for Kids; Board Member, Denver Police Foundation.

Brian Osterman Member, Leadership Board, Denver Health Foundation’s young professionals group, Next Generation Giving.

Jennifer Parker Board of Trustees, Porter Hospital.

Rebecca Payne Board of Directors, Miners Alley Playhouse.

Kathryn Reilly Board Member and Law Firm Council Chair for the Institute for Advancement of the American Legal System; Board Member, Colorado Women’s Bar Association; Board Member, Colorado Judicial Institute.

Jacob Rey Board of Directors, Sun Valley Youth Center.

Kurt Rozelsky Board Secretary, Euphoria Greenville.

Tamera Westerberg Catalyst Committee to the Public Education & Business Coalition.

Michael Williams Board of Trustees, St. Mary’s Academy.

Malcolm Wheeler Adviser for drafting the Restatement (Third) of Torts.

Frederick Yarger Vice President and Member of the Board of Directors, Tenth Circuit Historical Society; Member, Colorado Supreme Court Standing Committee on the Rules of Professional Conduct.

Judith Youngman Douglas County Counsel for the Democratic Party.

RECOGNITIONS

RECOGNITIONS

BTI CONSULTING

- 1 of Top 14 “Most Feared” Firms, *BTI Consulting Litigation Outlook 2020*—based exclusively on input from in-house counsel.
- 1 of 16 Nationwide “Standouts” for Alternative Fees in 2020.
- 1 of 31 “Midsize Heavyweights” in 2020—awarded to firms punching way above their weight.

THE AMERICAN LAWYER

National Litigation Boutique of the Year—Two-time finalist (2019, 2018).

COLORADO SUPER LAWYERS selected 37 WTO attorneys to its 2021 lists including: **Michael O’Donnell** named #1 in Colorado for the 9th straight year; **Hugh Gottschalk** named in the Top 10; **Carolyn Fairless**, **Katie Reilly**, and **Tamera Westerberg** named Top 50 Women; 10 in the Top 100.

CHAMBERS USA 2020

- Colorado General Commercial Litigation – Band 1.
- Nationwide Product Liability: Class Actions – Band 2; Top 10 U.S. Firms for Class Action Defense.
- Nationwide Product Liability & Mass Torts Defense – Band 3; Top 10 U.S. Firms by # of Lawyers Ranked.
- Colorado Labor & Employment Litigation – Band 3.

BENCHMARK LITIGATION 2020

23 WTO lawyers ranked—10 more than the next closest firm.

BEST LAWYERS listed 45 WTO lawyers for 2021, including 5 Lawyers of the Year.

U.S. NEWS – BEST LAW FIRMS ranked WTO in Tier 1 in Colorado in 13 practice areas and Tier 3 nationally for Appellate practice and Litigation - Environmental.

LAW WEEK COLORADO

- 2021 Top Women Lawyers: **Jessica Scott**
- 2020 Top Women Lawyers: **Michele Choe**
- 2020 Outstanding Legal Professionals: **Murphy Powell**
- 2020 Barrister’s Best Awards: **Kevin Kuhn**, Barrister’s Best Healthcare Lawyer, People’s Choice Medical Malpractice Lawyer – Defense; **Katie Reilly**, People’s Choice Antitrust Lawyer; **Michael Williams**, Barrister’s Best and People’s Choice Class Action/Mass Tort Lawyer – Defense.



BTI Consulting Midsize Heavyweight 2020



Wheeler Trigg O'Donnell FOUNDATION

For more information on the
WTO Foundation, visit us at
www.wtotrial.com/foundation



Visit us on Facebook at
Wheeler Trigg O'Donnell Foundation

COMMUNITY

The WTO Foundation (WTOF) was established in 2005 to provide opportunities for WTO lawyers, staff, and their families and friends to strengthen our communities through volunteering and charitable giving.

Since 2005, the WTO Foundation has donated more than \$2.4 million and thousands of volunteer hours to hundreds of nonprofits.

2020 HIGHLIGHTS

Fill the Void Colorado is a non-profit organization that provides groceries to families facing food insecurity. WTO personnel raised \$30,000 to feed 120 Colorado families.

COVID-19 & Racial Equity Relief – The WTO Foundation matched contributions from WTO employees to numerous organizations working towards racial equity and COVID-19 relief.

Legal Aid Foundation of Colorado funds equal access to justice for low-income Coloradans. WTO personnel and the WTO Foundation are proud supporters of this cause.

The WTO Foundation sponsors the **Arrupe Jesuit High School Mock Trial team**. Foundation support means that every student who wants to participate, can.

Colorado Coalition for the Homeless creates lasting solutions to homelessness. The WTO Foundation's support helps ensure Coloradans experiencing homelessness have access to essential services.

Law School...Yes We Can! is a pipeline and mentoring program for first-generation college students interested in law. The WTO Foundation funds LSAT scholarships, and numerous WTO attorneys serve as mentors.

The Center for Legal Inclusiveness (CLI) actively educates and supports legal organizations to advance diversity in the industry. The WTO Foundation proudly supports CLI.

Denver Dumb Friends League rescues, shelters, and adopts out animals in need. WTO Foundation volunteers raised \$2,795.00 through a match fundraiser.

“A firm can't be a first-rate institution without looking out for its community, too.”

– Michael O'Donnell, Founder, Wheeler Trigg O'Donnell Foundation



Wheeler Trigg O'Donnell LLP

wtotrial.com