



DAVID J. SCHALLER

Partner

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Dave Schaller represents sophisticated clients across a wide range of practice areas. He has defended clients in complex commercial actions, high-stakes professional liability matters, wage and hour class actions, FLSA collective actions, catastrophic trucking litigation, high-stakes personal injury actions, and products liability cases. His clients include Fortune 500 companies, international shipping companies, and legal professionals.

EDUCATION

University of Denver Sturm College of Law, J.D., 2003
Order of St. Ives

University of Massachusetts, B.A., 1991, English and Psychology

OTHER EXPERIENCE

Ballard, Spahr, Andrews & Ingersoll, L.L.P.

ADMISSIONS

Colorado

HIGHLIGHTS

- Won a defense jury verdict for healthcare professionals facing negligence claims in Seattle, Washington.
- Defeated class and collective actions nationwide for a Fortune 500 company, including decertification of one of the largest FLSA collectives in U.S. history.
- Obtained decertification of an FLSA conditional collective that had been certified before WTO took over the case. After the decertification decision was issued, lawyers for the plaintiffs conceded that another pending nationwide case—which WTO also was defending—should be decertified as well.
- First-chaired multiple commercial arbitrations for an international shipping company.
- First-chaired multiple arbitrations for an automotive dealer.
- Defeated Rule 23 class certification of state law overtime claims in federal court in New Mexico for an international shipping company.
- Defeated conditional certification of an FLSA and state law putative collective action in federal court in Ohio for an international shipping company.

INDUSTRIES

- Automotive
- Professional Services
- Legal Services
- Trucking
- Healthcare
- Consumer Products & Services
- Insurance

PRACTICE AREAS

- Class Actions
- Franchise & Distribution
- Employment
- Commercial Litigation
- Healthcare Professional Liability
- Professional Liability
- Catastrophic Injury Defense

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BIOGRAPHY

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Dave has successfully tried cases and arbitrations, and conducted multiple evidentiary hearings. He has argued and prevailed on numerous dispositive motions in state and federal court, saving his clients time and money by circumventing the need to go to trial. Additionally, he has led several large-scale mediations, obtaining favorable results for his clients.

In addition to his trial practice, Dave has significant experience developing and implementing strategic plans for discovery and electronic discovery in large scale cases, including developing ESI protocols, and managing the collection, review, and production of electronic discovery. He enjoys working with clients to identify their goals for litigation, and collaborating with them to develop litigation and business strategies. He has earned a reputation for appreciating his clients' priorities, and resolving legal disputes creatively and efficiently.

CASES

- Won a defense jury verdict for healthcare professionals facing negligence claims in Seattle, Washington. The plaintiff claimed failure to timely diagnose cauda equina syndrome that led to permanent bowel and bladder incontinence. After plaintiff's counsel asked the jury for \$40 million, jurors returned a unanimous verdict for our clients.
- Defeated class and collective actions nationwide for a Fortune 500 company, including decertification of one of the largest FLSA collectives in U.S. history.
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- Defeated conditional certification of an FLSA and state law putative collective action in federal court in Ohio for an international shipping company.
- Defeated conditional certification of an FLSA and state law putative collective action in federal court in Virginia for an international shipping company.
- Won Second Circuit affirmance for a Michelin subsidiary upholding summary judgment from the Southern District of New York. The case involved fraud perpetrated by a former employee and a third party.
- Served as regional trial counsel to a leading national shipping company for high-stakes trucking litigation.
- Won a significant appeal for FCA (Chrysler) in the Missouri Court of Appeals relating to a 2014 jury trial WTO won for Chrysler. Following trial, the judge entered a declaration in favor of the plaintiff on one remaining count. The Court of Appeals reversed following WTO's successful argument.
- Represented an international shipping and package delivery company in numerous arbitrations involving independent contractor classification.
- Won a complete defense verdict in a jury trial for an automotive manufacturer on claims challenging major aspects of the business operation.
- Represented a major oil producer in arbitration to recover damages stemming from a business partner's breach of contract.
- Represented major automotive manufacturers in litigation involving dealer terminations in Oregon and Colorado.
- Represented a major REIT in class action arbitration initiated to recover damages related to a natural disaster.
- Won a complete jury verdict for Chrysler Group LLC in a Missouri lawsuit involving an automobile dealer plaintiff claiming damages of tens of millions of dollars.
- Obtained complete dismissal of a ten-count discrimination complaint against a Fortune 100 client. WTO won the ensuing appeal to the Tenth Circuit, affirming the trial court's dismissal in full.
- Successfully represented employers in noncompete and trade secret litigation, including obtaining injunctive relief against a former employee of a solar power plant developer for violation of noncompete and nondisclosure agreements.

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- Won a bench verdict in state court in a legal malpractice matter. After the law firm brought a collection action against a former client, the former client countered with a multimillion-dollar damages demand, claiming breach of fiduciary duty. Following a one-week trial, the judge dismissed the former client's counterclaim and awarded WTO's client the full amount of fees owed plus interest.
- Defended an investment advisory firm in Cook County, IL against a \$10 million professional negligence claim. After a two-week trial, the jury found for the defendant.
- Represented a managing partner in a \$5 million suit between law firm partners with respect to claims of fraud and mismanagement. After a two-week trial, WTO's client prevailed on fraud and mismanagement claims, and the Court ordered an accounting and liquidation of the firm.
- Co-managed with one other law firm the response to requests from 418 dealers for arbitration relating to the bankruptcy of Chrysler Group LLC and following Chrysler's termination of those dealerships. WTO litigated 187 of these Section 747 arbitrations, and, as directed by Congress, resolved all of the litigation within seven months--with a 96% success rate.
- Won affirmation for Chrysler before the California Court of Appeals in an opinion that established favorable precedent for manufacturers operating in California. The Court affirmed a trial court's complete dismissal of claims against Chrysler for rejecting a prospective dealership purchaser.
- Represent major automotive manufacturer in defense of product liability claims involving varying designs of sport utility vehicles.

TEACHING POSITIONS

- National Institute for Trial Advocacy
Instructor - Rocky Mountain Deposition Skills Program and Trial Skills Program
- Advanced Advocates Training Program for the National Organization of Bar Counsel
Instructor

REPRESENTATIVE CLIENTS

- American Family Insurance
FedEx Freight, Inc.
Ford Motor Company

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BAR & COURT ADMISSIONS

- Colorado
 - U.S. Court of Appeals, 10th Circuit
 - U.S. Court of Appeals, 1st Circuit
 - U.S. District Court, D. Colorado
 - U.S. District Court, D. New Mexico

LEGAL MEMBERSHIPS, ACTIVITIES & HONORS

- Colorado Super Lawyers
 - Business Litigation, 2014-2026
- Colorado Rising Stars
 - Business Litigation, 2010-2013
- Law Week Colorado
 - Up-and-Coming Lawyer, 2009
- American Bar Association
- Colorado Bar Association
- Denver Bar Association
- Defense Research Institute
- Wheeler Trigg O'Donnell Recruiting Committee
 - Co-chair

COMMUNITY MEMBERSHIPS, ACTIVITIES & HONORS

- Inspire Creative
 - Vice President, Board of Directors

ARTICLES & PRESENTATIONS

Presentations

- Presenter, "Franchise Drafting Tips from Franchise Litigators: Common Provisions Leading to Unintended Consequences," The Colorado Bar Association, Franchise Law Subsection, (September 29, 2016).
- Presenter, "Business Documents and Document Drafting From the Perspective of Litigators – The Big Blunders!" The Colorado Bar Association, Business Law Institute, (September 15, 2016).
- Presenter, "The Lifecycle of Litigation – Avoiding (Or Managing) A Trainwreck," The Colorado Bar Association, Business Law Institute, (September 15, 2016).
- "Trial Coach," Colorado Defense Lawyers Association Annual Trial Academy, (April 20, 2016).

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- Presenter, "What Business Lawyers Do That Litigators Love: Your Worst Nightmares," The Colorado Business Law Institute, (October 28, 2015).
- Presenter, "A Roadmap for Successful Arbitration," The Association for Corporate Counsel Colorado Chapter, (May 3, 2012).

PERSONAL INTERESTS

- Golf, skiing, four-wheeling, and enjoying Colorado with family