



JOEL S. NECKERS

Partner

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Joel Neckers has handled hundreds of complex civil disputes, taken 20 trials to verdict across the U.S., and served as lead counsel in 25 states. He recently served on a trial team that won a case involving \$1.25 billion for an electric distribution co-op. Joel routinely handles commercial disputes, oil and gas and other energy-related matters, class actions, and healthcare/medical malpractice claims. The Best Lawyers in America recognizes Joel for his expertise in commercial litigation, and Colorado Super Lawyers lists him for class actions and mass torts defense.

EDUCATION

University of Michigan Law School, J.D., 2004, *magna cum laude*
Order of the Coif

Hope College, B.A., 2001, Political Science, *magna cum laude*, Dean's Honors

GOVERNMENT SERVICE

Law Clerk to The Honorable David W. McKeague, United States Court of Appeals for the Sixth Circuit and United States District Court for the Western District of Michigan

OTHER EXPERIENCE

Latham & Watkins LLP (2005-2008)

ADMISSIONS

Colorado
Illinois

HIGHLIGHTS

- Serving as lead trial counsel to more than a dozen healthcare clients (e.g. healthcare systems, hospitals, home health care, medical groups) in cases with 8 or 9-figure exposure.
- Successfully represented healthcare clients in hundreds of lawsuits in 25 different states, collectively with damages claims in the billions of dollars.
- Enjoined legislation for an oil & gas company by securing a preliminary injunction victory, which will protect the client's investment-backed expectations for years.
- Won motion for summary judgment—affirmative judgment of about \$6 million—for a hospital client in a commercial dispute with vendor.
- Secured favorable settlement for an energy company in a \$500 million contractual dispute.
- Secured voluntary dismissal of RICO claims in Texas federal court for a transportation industry client.
- Advising a global energy company on litigation risk and mitigation efforts in connection with billion-dollar infrastructure projects.

INDUSTRIES

- Oil & Gas
- Energy
- Healthcare
- Consumer Products & Services
- Financial Services
- Professional Services

PRACTICE AREAS

- Commercial Litigation
- Class Actions
- Healthcare Professional Liability
- Legal Professional Liability

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BIOGRAPHY

Joel Neckers has handled hundreds of complex civil disputes, taken 20 trials to verdict across the U.S., and served as lead counsel in 25 states. He recently served on a trial team that won a case involving \$1.25 billion for an electric distribution co-op. Joel routinely handles commercial disputes, oil and gas and other energy-related matters, class actions, and healthcare/medical malpractice claims. The Best Lawyers in America recognizes Joel for his expertise in commercial litigation, and Colorado Super Lawyers lists him for class actions and mass torts defense.

CASES

Commercial Litigation

- Won motion for summary judgment—affirmative judgment of about \$6 million—for a hospital client in a commercial dispute with vendor.
- Secured favorable settlement for an energy company in a \$500 million contractual dispute.
- Secured voluntary dismissal of RICO claims in Texas federal court for a transportation industry client.
- Representing a global commercial real estate company in connection with various issues, including foreclosures and guaranty agreements.
- Obtained a temporary restraining order for a national bank in a case involving a departing employee who stole trade secrets and breached fiduciary duty.
- Defeated a preliminary injunction brought by a former investment executive who sued to nullify a noncompete and launch a competing firm by taking 50 clients representing \$200 million in investments. Collaborating with another law firm, WTO showed in a two-day, federal court hearing that the former executive did not meet the requirements for injunctive relief. The Court agreed and denied the motion.
- Obtained summary judgment for a commercial lender resulting in an award of more than \$2.5 million, including interest and legal fees, relating to an LLC's default on a condominium development loan.
- Won a bench trial—including an award of attorneys' fees—for a national title insurance company in connection with a case involving the fraudulent sale of property.
- Defended an appeal seeking to overturn district court prejudgment writs of attachment and motion dismissing counterclaims in fraud/civil theft case.

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- Won multiple temporary restraining orders and motions for preliminary injunctions after evidentiary hearings in cases involving breach of fiduciary duties and breach of contract.
- Served as second-chair in several arbitrations for one of the world's largest automobile manufacturers following the passage of Section 747 of the Consolidated Appropriations Act of 2010.
- Secured early dismissal of financial services company in securities lawsuit.

Energy / Oil & Gas

- Enjoined legislation for an oil & gas company by securing a preliminary injunction victory, which will protect the client's investment-backed expectations for years.
- Advising a global energy company on litigation risk and mitigation efforts in connection with billion-dollar infrastructure projects.
- Representing an oil and gas company in a regulatory appeal involving \$100+ million development efforts.
- Won a Colorado Supreme Court opinion for Crestone Peak Resources in a lease dispute with significant implications for Colorado's oil and gas industry.
- Serving as lead trial counsel in a certified class action arbitration involving an oil and gas royalty accounting dispute.
- Won a published opinion for Crestone Peak Resources, protecting strategically important aspects of the company's original \$900M investment and affirming the trial court's summary judgment rulings for WTO's client after Boulder County sought to invalidate several of the company's oil and gas leases.
- Won a \$1.25 billion exit fee dispute for an electric distributor against its generation and transmission provider.
- Won summary judgment for Crestone Peak Resources against Boulder County in a case involving an attempt to invalidate a key oil and gas lease that would have materially impacted Crestone's \$900 million investment, thereby clearing a major hurdle to significant future development.
- Won an arbitration involving a \$50 million claim brought by a joint venture partner against WTO's oil and gas company client.
- Served as first chair in a two-week arbitration for a wind turbine manufacturer in a commercial dispute with a supplier.

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- Represented an automobile manufacturer and solar energy company in class actions involving consumer fraud and breach of warranty allegations.
- Won a \$4.2 million judgment for a renewable energy client involving an executive's embezzlement from the company.
- Won arbitration, including an award of attorneys' fees, for a closely-held energy company based in Colorado in a case involving interpretation of a shareholder agreement and corporate governance issues.
- Served as an expert witness for oil and gas company in attorneys' fee dispute.

Class Actions

- Won motion for summary judgment for an oil and gas client in an Arkansas federal court class action.
- Secured individual settlement of BIPA class action for a transportation industry client in an Illinois federal court class action.
- Defeated a third class certification attempt brought by plaintiffs in four states against Volvo in an overly broad putative class action alleging defects in eight Volvo model sunroofs. The ruling is a significant setback to plaintiffs in the 11-year-old case that the court described as "tortured."
- Won unanimous Seventh Circuit victory in a fee dispute for Whirlpool and Sears arising out of a certified federal class action lawsuit that WTO favorably settled after winning a defense verdict in the bellwether trial of related claims.
- Won a complete defense jury verdict for Whirlpool as co-trial counsel in a \$66 million certified class action trial in Ohio involving allegedly "moldy" washing machines.
- Obtained dismissal of class action allegations and 15 of 17 claims against Whirlpool in an environmental toxic tort case. Plaintiffs voluntarily dismissed their remaining claims after the court's ruling.
- Defeated a motion to certify a nationwide breach of warranty class in a case alleging that certain Kenmore washing machines contained defective electronic control boards that caused the machines to malfunction.
- Secured dismissal with prejudice of a putative nationwide class action complaint alleging that certain Whirlpool washing machines were "misabeled" with the Energy Star logo.

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Healthcare / Medical Malpractice

- Serving as lead trial counsel to more than a dozen healthcare clients (e.g. healthcare systems, hospitals, home health care, medical groups) in cases with 8 or 9-figure exposure.
- Successfully represented healthcare clients in hundreds of lawsuits in 25 different states, collectively with damages claims in the billions of dollars.
- Won motion for summary judgment disposing of all claims in a birth injury case for a Minnesota-based hospital.
- Won a defense jury verdict in Ohio for two neonatologists facing claims of negligently handling the care of a newborn baby.
- Obtained a favorable jury verdict in South Carolina for a national healthcare company in an admitted liability wrongful death case involving punitive damages.
- Won a defense verdict for a Florida hospital in a three-week medical malpractice trial. The case involved a baby who suffered cerebral palsy after a rare delivery complication. The plaintiff sued the hospital for \$7 million, claiming complications could have been avoided had a C-section been performed. The WTO team successfully argued the complication was unpredictable and unpreventable, and the doctors actually saved the mother and child.
- Won a defense verdict for a Washington D.C. hospital in a \$40 million medical malpractice lawsuit that involved a baby born with severe brain damage.
- Served as second-chair in a bench trial in Washington State in a lawsuit brought against a corporation and an individual involving allegations related to an alleged traumatic brain injury and secured favorable judgment in an admitted liability case.

Other Relevant Experience

- Won a directed verdict on a Colorado Wage Claim Act claim and secured voluntary dismissal of defamation and punitive damages claims for a large regional bank the night before closing arguments in a five-day trial after four-plus years of litigation.
- Won complete summary judgment of all seven claims brought against WTO's commercial client in an employment matter involving unsupported allegations of wrongful termination, retaliation, and age discrimination.
- Won three critical summary judgment and *Daubert* rulings for a major law firm and three lawyers in a legal malpractice case, precluding damages claims in excess of \$10M from proceeding to trial and materially lowering the clients' risk going forward.

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REPRESENTATIVE CLIENTS

Crestone Peak Resources
United Power
Whirlpool - National Trial Counsel

BAR & COURT ADMISSIONS

Colorado
Illinois
U.S. Court of Appeals, 6th Circuit
U.S. Court of Appeals, 7th Circuit
U.S. District Court, D. Colorado
U.S. District Court, E.D. Michigan
U.S. District Court, N.D. California
U.S. District Court, N.D. Illinois
U.S. District Court, N.D. Indiana

LEGAL MEMBERSHIPS, ACTIVITIES & HONORS

The Best Lawyers in America
 Commercial Litigation, 2021-2026
 Product Liability Litigation - Defendants, 2021-2026
Colorado Super Lawyers
 Class Action/Mass Torts Defense, 2021
 Business Litigation, 2022-2026
Benchmark Litigation
 Litigation Star, 2023
 40 & Under National Star, 2019
 40 & Under Hotlist, 2018
 Future Star, 2024-2026
Colorado Rising Stars
 Class Action/Mass Torts, 2014-2018
 Civil Litigation Defense, 2012-2013
 Business Litigation, 2011
American Society of Legal Advocates
 40 Under 40 Litigation Lawyers in Colorado, 2013 and 2014
Law Week Colorado
 Top Litigators
 Up and Coming Lawyers - Finalist, 2009
Federation of Defense & Corporate Counsel
2016 Outstanding Subcommittee Chair, Class Action and Derivative Suits
 Committee, ABA Section of Litigation
Rocky Mountain Mineral Law Foundation
 Member

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Denver Petroleum Club
Member

COMMUNITY MEMBERSHIPS, ACTIVITIES & HONORS

Colorado Coalition for the Homeless
Chair of Board of Directors

ARTICLES & PRESENTATIONS

Articles

- Co-Author, "Trial by Webcam: Tips From a Firsthand Experience," Law360, (May 28, 2020).
- "Defending Health-Care Decisions to Juries in a Post-Coronavirus World," DRI's The Voice, Vol. 19, No. 21, (May 27, 2020).
- "Hoping for the Best, While Preparing for the Worst: Addressing Resource Shortages During a Crisis," (March 2020).
- "Some (Minor) Relief In Sight: Secretary Issues 1135 Waiver of EMTALA's Medical Screening and Transfer Requirements," (March 2020).
- "PREP Act: Healthcare Providers, Labs, and Behavioral Facilities May Invoke Immunities Related to Testing and Treatment of Coronavirus Patients," (March 2020).
- "Coronavirus: Inevitable Future Litigation Involving the Healthcare Industry," (March 2020).
- "Your Options When The Coronavirus Impacts Contractual Performance," (March 2020).
- "An Overview of *Cy Pres* Distributions of Class Action Settlement Funds," ABA podcast, (April 1, 2016).
- "Defending Rule 30(b)(6) Depositions In Professional Liability Cases," *An ExecSense eBook*, Digital Thought Leadership, (February 2013).

Presentations

- Co-presenter, with Jamie Jost and Kelsey Wasylenky of Jost Energy Law, "Navigating the New Normal in a Changed Oil & Gas Climate," (January 21, 2021).
- Presenter, "Breaking Bad, All the Time: White Collar Crime Problems for Business Lawyers," The Network of Trial Law Firm's Litigation Management, Defend and Protect seminar, (November 2013).

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- Presenter, "Not in That Backyard: A Practitioner's Guide to Venue Challenges and Enforcing Forum-Selection Clauses," The International Association of Defense Counsel, (August 21, 2013).

Newsletters

- "Mistakes Were Made."
- Law Firms are Attractive to Hackers

PERSONAL INTERESTS

- Skiing, rock climbing, running, travel