



HUGH Q. GOTTSCHALK

Partner

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Hugh Gottschalk has taken more than 75 trials to verdict and over 20 arbitrations to award, delivering outstanding results for sophisticated clients. Hugh represents companies and individuals across diverse industries in complex commercial, torts, and intellectual property lawsuits. Hugh is a Fellow and past Colorado State Chair of the American College of Trial Lawyers, and he is ranked in Band 1 in *Chambers USA*. For three straight years, *Super Lawyers* has ranked Hugh in the Top 10 in Colorado based on input from his colleagues and peers.

"He brings calm to the chaos of high-stakes litigation."

—Client comment to *Chambers USA*

EDUCATION

University of Colorado Law School, J.D., 1979

University of Colorado Law Review, Articles Editor

Northwestern University, B.S., 1975, Biochemistry

OTHER EXPERIENCE

Otten, Johnson, Robinson, Neff & Ragonetti, P.C.

Holland & Hart LLP

Town of Bow Mar
City Attorney

ADMISSIONS

Colorado

HIGHLIGHTS

- Obtained preliminary injunction for a television provider against one of the largest media companies in the Middle East.
- Won affirmance for IBM in a \$6.1M municipal tax dispute that WTO also won at trial.
- Won a defense verdict as co-counsel to defeat claims that WTO's oil and gas client owed \$400 million to a stakeholder.
- Won a defense verdict as co-counsel to defeat \$800 million claims in a bet-the-company shareholder dispute involving an oil and gas client.
- Won a defense verdict in a highly public, multi-week jury trial alleging a wrongful death claim against a recreation industry client following the tragic death of a minor.
- Won a trial verdict for IBM as plaintiff in a \$6.1 million municipal tax dispute.
- Won Sixth Circuit opinion for FCA addressing a federal preemption question arising out of the 2010 Chrysler bankruptcy.

INDUSTRIES

- Energy
- Construction & Engineering
- Financial Services
- Medical Devices & Pharmaceuticals
- Oil & Gas
- Professional Services
- Real Estate

PRACTICE AREAS

- Antitrust & Competition
- Commercial Litigation
- Environmental Litigation
- Franchise & Distribution
- Intellectual Property
- Mass Torts
- Personal Injury Defense
- Product Liability
- Professional Liability

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BIOGRAPHY

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Hugh's commercial litigation experience is extensive. He has represented clients in numerous disputes involving alleged breaches of contracts, fraud and misrepresentation, securities, franchise matters, and intellectual property infringements. Hugh has served as national or regional trial counsel to several large and well-known companies in industries as diverse as oil and gas, automotive, information technology, manufacturing, and consumer and professional services.

In 2010, Hugh led the WTO team that managed the response to 418 dealer arbitration requests and the litigation of 187 of the Section 747 arbitrations for Chrysler Group. WTO was one of only two law firms in the country representing Chrysler in these matters. Over a four-month period, Hugh himself tried nine of these arbitrations and won eight of them.

Chambers USA describes Hugh as "an excellent strategist and trial lawyer," and ranks him among the top commercial litigators in Colorado. "He brings calm to the chaos of high-stakes litigation," *Chambers* quotes a client as reporting. Hugh has been selected by his peers for inclusion in the business litigation category in *Colorado Super Lawyers* since its inception in 2006, including twice in a row being listed in the Top 10 (2019, 2018, and also 2008) and multiple years on its top 50 list. Hugh has also been selected for inclusion in *Benchmark Litigation*, *Best Lawyers*, and *The Legal 500 U.S.*

CASES

- Obtained preliminary injunction for a television provider against one of the largest media companies in the Middle East that violated an exclusive distribution agreement.
- *IBM Corp. v. City of Golden, et.al.* (Colo. App. 2020) - Won affirmance in the Colorado Court of Appeals for IBM Corp. of WTO's trial victory in a \$6.1 million municipal tax dispute.
- Won a defense verdict as co-counsel to defeat claims that WTO's oil and gas client owed \$400 million to a stakeholder.
- Won a defense verdict as co-counsel to defeat \$800 million claims in a bet-the-company shareholder dispute involving an oil and gas client.
- Won a defense verdict in a highly public, multi-week jury trial alleging a wrongful death claim against a recreation industry client following the tragic death of a minor.

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- *IBM Corp. v. City of Golden, et al.* (Denver Cnty. Ct. 2018) - Won a trial verdict for IBM as plaintiff in a \$6.1 million tax dispute against the City of Golden involving sales and use taxes assessed over a seven-year span.
- *FCA v. Spitzer Autoworld Akron*, 17-1161 (6th Cir. 2018) - Argued and won for FCA (fka Chrysler) in the Sixth Circuit in a case involving the question of whether federal legislation enacted following the Chrysler bankruptcy preempted Ohio state dealer laws.
- Won an arbitration ruling for \$2.9 million, including punitive damages, for an investment fund misled into overpaying for an oil field services company based on misrepresentations made during the sale and omissions made during settlement negotiations regarding the sale.
- Obtained a preliminary injunction for a \$1 billion oil and gas client involved in bet-the-company litigation against an executive.
- Won a directed verdict in a trade secrets trial for an oil and gas company. The plaintiff claimed theft of its technical geological data that allegedly had allowed the defendant to improperly acquire several hundred thousand acres of oil and gas leases in northeastern Nevada. The plaintiff's expert opined that the misappropriation of the trade secrets had caused more than \$1 billion dollars in damages.
- Won an arbitration award for future oil and gas royalties valued between \$70,000,000 and \$100,000,000 in a *David v. Goliath* case against a multinational oil company.
- *Banner Health v. Phoenix Children's Hospital* - Represented Phoenix Children's Hospital in a claim asserted by Banner Health that a merger between PCH and another healthcare entity triggered a termination clause in a lease of PCH's neonatal ICU. Following a two-week trial, the arbitrator terminated the lease.
- *Eagle v. Chrysler* - Represented Chrysler in a case in which several Chrysler dealers asserted Chrysler failed to comply with an obligation to provide new dealerships following its bankruptcy. Following trial, the Court entered judgment for Chrysler.
- Successfully defended Chrysler against an automobile dealership's allegations of oppressive and unreasonable terms in a letter of intent to enter into a franchise agreement after Chrysler's bankruptcy in a franchise case of national significance.
- 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.
- *Golan v. Holder*, 132 U.S. 873 (2012) - Represented plaintiffs challenging the constitutionality of increasing copyright protection by 20 years and Section 514 of Uruguay Round Agreements Act extending copyright protection to foreign works. The United States Supreme Court ruled the statutes were constitutional.
- 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.

HUGH Q. GOTTSCHALK

- Briefed an appeal in the United States Court of Appeals for the Second Circuit, resulting in full affirmance of a verdict in favor of WTO's client, Chrysler Group, on a federal statutory issue of first impression stemming from Congress's enactment of Section 747 of the Consolidated Appropriations Act of 2010.
- 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.
- *Colorado Coffee Bean v. Peaberry Coffee* - Defended a franchisor against fraud claims made by franchisees, who sought tens of millions of dollars in actual and punitive damages. After a five-week trial, WTO won judgment for our client. The Court awarded \$2 million in attorneys' fees against the franchisees.
- *Unger v. St. Vrain Partners* - Won a jury defense verdict for a limited liability company whose members claimed the distribution of funds made in 2001 violated the company's operating agreement.
- *Silverton Mountain v. Core Mountain Enterprises* - Defended Silverton Mountain against claims brought by an adjacent landowner/competitor. The plaintiff sought damages and an injunction to shut down the ski area based on allegations of trespasses caused by WTO's client's avalanche control work. WTO won a defense verdict.
- Won a jury defense verdict for Conoco following a six-week trial involving claims by the town of Castle Rock, Colorado that a leaking Conoco underground storage tank had contaminated the town's municipal drinking water.
- *Laser Tech v. BDO Seidman* - Represented BDO Seidman in shareholder suit that claimed securities fraud and a negligent audit by the company's accountants. Persuaded the plaintiffs the audit process could not have uncovered the manipulation, and plaintiffs dismissed their claims.
- *Stearns v. Jetway* - Won Fifth Circuit affirmation of the lower court's granting of summary judgment in a case alleging unfair monopolization against FMC Corporation and involving the company's aircraft boarding bridges.
- Represented Conoco in the favorable settlement of toxic tort litigation brought by the City and County of Denver regarding the contamination and cleanup of Denver's former airport.
- Represented Coors in the settlement of CERCLA litigation brought by the City and County of Denver regarding the Lowry Landfill.
- *Rieder v. Hallmark* - Settled trademark/antitrust litigation regarding nationwide market for distribution of greeting cards.
- Defended Conoco against toxic tort litigation brought by an oil refinery and relating to the joint remediation of the two companies' adjacent refineries.

HUGH Q. GOTTSCHALK

- *Scott v. Conoco* - Defended Conoco against personal injury claims relating to an accident at one of its refineries. The plaintiff prevailed in a seven-day jury trial, but the case was later reversed by the Colorado Court of Appeals.
- *Cornerstone v. BDO Seidman* - Settled accounting malpractice litigation relating to the embezzlement of \$10 million by a company's president.
- *Sonoco Products v. Newark Paper Products* - Won an injunction for Newark Paper Products following a three-week trial asserting that Sonoco and its employee had misappropriated trade secrets from Newark.
- *Flying J v. Conoco* - Defended Conoco in a series of arbitrations in which Flying J claimed that the ConocoPhillips merger triggered a provision in the Conoco-Flying J joint venture agreement that would have allowed Flying J to acquire Conoco's interest at book value, which was approximately \$1 billion less than the market value of the interest. The arbitrator found in Conoco's favor, concluding that market value was the proper way to value Conoco's interest.
- *Conoco v. Valero* - Represented Conoco in cost-recovery and cost-allocation litigation relating to the parties' environmental clean-up of adjacent properties.
- *Total Petroleum v. Conoco* - Represented Conoco in breach-of-contract litigation between the parties relating to the environmental clean-up of the parties' contaminated property.
- Handled arbitrations in cost-sharing disputes over environmental clean-up at a gasoline refinery in Denver.

TEACHING POSITIONS

National Institute for Trial Advocacy

University of Colorado Trial Advocacy Program, 1985-1986

REPRESENTATIVE CLIENTS

ConocoPhillips

FMC - Regional Trial Counsel

Mercedes-Benz USA - National Trial Counsel

BAR & COURT ADMISSIONS

Colorado

U.S. Court of Appeals for the Ninth Circuit

U.S. Court of Appeals for the Tenth Circuit

U.S. District Court for the District of Colorado

U.S. District Court for the Eastern District of Michigan

U.S. Supreme Court

LEGAL MEMBERSHIPS, ACTIVITIES & HONORS

American College of Trial Lawyers

Fellow

HUGH Q. GOTTSCHALK

Chair, Colorado State Committee, 2016-2018
American Board of Trial Advocates
Member
Chambers USA
Commercial Litigation - Colorado, 2005-2018
Band 1 - 2018-2019
Band 2 - 2007-2017
University of Colorado Law School
2017 Distinguished Alumni Award - Private Practice
Law Week Colorado
"People's Choice" Best Intellectual Property Lawyer, 2010
Lawyer of the Year, 2010
The Best Lawyers in America
Denver Bet-the-Company Lawyer of the Year, 2016, 2020
Denver Intellectual Property Litigation Lawyer of the Year, 2014
Bet-the-Company Litigation, 2008-2020
Commercial Litigation, 2008-2020
Intellectual Property Litigation, 2016-2020
Personal Injury Litigation, 2018-2020
Product Liability Litigation, 2008-2020
The Legal 500 United States
Litigation: Product Liability and Mass Tort Defense, 2009-2011
Benchmark Litigation
Insurance Litigation - Colorado, 2016
Commercial Litigation - Colorado, 2011-2015, 2017-2018
5280 Magazine
Top Lawyer
Civil Litigation, 2020
Colorado Super Lawyers
Business Litigation, 2006-2020
Top 10, 2018-2020; 2008
Top 50, 2009-2011
Top 100, 2012-2017
International Who's Who of Product Liability Defense Lawyers, 2010, 2016-2017
Martindale-Hubbell AV® Peer Review Rated
Colorado Corporate Counsel Black Book
Product Liability, 2007
Denver Business Journal Who's Who in Energy, 2015
Selected among top 28 energy-industry lawyers in Denver
Best of the Bar, *Denver Business Journal*, 2005
Defense Research Institute
American Bar Association
Litigation Section
Colorado Bar Association
Patent, Trademark, and Copyright Section

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Denver Bar Association
National Institute for Trial Advocacy
Faculty
Product Liability Advisory Council
Sustaining Member, 1988-1992
Executive Committee, 1991-1992
American Civil Liberties Union of Colorado
Board of Directors
Legal Aid Foundation
Chairperson, 2011-2012
Rothgerber Moot Court Competition
Finalist
University of Colorado School of Law's National Moot Court Team
Member

ARTICLES & PRESENTATIONS

Articles

- "Automatic Disclosure in Discovery: The Rush to Reform," 27 Ga. L. Rev. 1 (1992).

Presentations

- "Taking and Defending Depositions," presented for CLE credit to assistant U.S. attorneys and other federal agency counsel at the United States Attorney's Office for the District of Colorado (December 3, 2014).
- "Cross Examination - Perfecting an Effective Cross and Handling Difficult Witnesses and Experts," presented at the Winning at Trial: Tactics and Skills for 2011, sponsored by the American College of Trial Lawyers (November 11, 2011).
- "Tips from the Bench," presented to Association of Corporate Counsel Colorado Chapter (February 2008).