



JOEL S. NECKERS

Partner

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Joel Neckers represents sophisticated clients in trials and complex civil litigation, including commercial disputes, consumer class actions, professional liability claims, and cases involving catastrophic injury and wrongful death. *Benchmark Litigation* named Joel a 2019 40 & Under National Star.

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

- Won summary judgment for an oil and gas company in a commercial lawsuit brought by Boulder County involving \$600 million of the client's assets.
- 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 sought by a former executive seeking to launch a competing business and take nearly \$200 million in investments with him.
- Won an arbitration award for an oil and gas client facing a \$50 million demand following an asset purchase.
- Won Seventh Circuit victory in a fee dispute for Whirlpool and Sears relating to front-loading washing machine litigation.
- Served as first chair in a two-week arbitration for a wind turbine manufacturer in a commercial dispute with a supplier.
- Won defense verdict for two neonatologists against negligence claims in Ohio.

INDUSTRIES

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

PRACTICE AREAS

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

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BIOGRAPHY

Joel Neckers represents clients in high-stakes litigation across the United States. His experience includes representing highly visible clients in numerous commercial disputes and dozens of consumer class actions. Joel also represents clients in complex civil litigation including shareholder disputes, professional liability claims, and claims involving catastrophic injuries and wrongful death. *Benchmark Litigation* named Joel a 2019 40 & Under National Star.

CASES

Commercial Litigation

- 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 \$600 million investment, thereby clearing a major hurdle to significant future development.
- 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.
- 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.
- 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 in 2013 (including an award of attorneys' fees) on behalf of a national title insurance company in connection with a case involving the fraudulent sale of property.
- *Old Republic National Title Insurance v. Kornegay*, 292 P.3d 1111 (Colo. 2012) - Defended an appeal seeking to overturn district court prejudgment writs of attachment and motion dismissing counterclaims in fraud/civil theft case.
- *Vestas Blades v. Randall* (Colo. 2011) - Won a \$4.2 million judgment for a renewable energy client in a civil trial 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.

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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.
- Secured early dismissal of financial services company in securities lawsuit.
- Served as an expert witness for oil and gas company in attorneys' fee dispute.
- 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.

Class Actions

- *In re Sears, Roebuck & Co. Front-Loading Washer Products Liability Litigation* (7th Cir. 2017) - 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.
- *Glazer v. Whirlpool* (N.D. Ohio 2014) - 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.
- *Brown v. Whirlpool* (N.D. Ohio 2014) - 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.
- Represented an automobile manufacturer and solar energy company in class actions involving consumer fraud and breach of warranty allegations.
- *Tietsworth v. Sears* (N.D. Cal. 2013) - 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.
- *Savett v. Whirlpool* (N.D. Ohio 2012) - Secured dismissal with prejudice of a putative nationwide class action complaint alleging that certain Whirlpool washing machines were "mis-labeled" with the Energy Star logo.

Catastrophic Injury / Wrongful Death

- 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.

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- 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.

REPRESENTATIVE CLIENTS

CNA - National Trial Counsel
Sears Holdings Corp.
Universal Health Services - National Trial Counsel
Volvo Cars of North America
Whirlpool - National Trial Counsel

BAR & COURT ADMISSIONS

Colorado
Illinois
U.S. Court of Appeals for the Seventh Circuit
U.S. Court of Appeals for the Sixth Circuit
U.S. District Court for the District of Colorado
U.S. District Court for the Eastern District of Michigan
U.S. District Court for the Northern District of California
U.S. District Court for the Northern District of Illinois
U.S. District Court for the Northern District of Indiana

LEGAL MEMBERSHIPS, ACTIVITIES & HONORS

Benchmark Litigation

40 & Under National Star, 2019
40 & Under Hotlist, 2018

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's 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

Denver Petroleum Club

Member

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COMMUNITY MEMBERSHIPS, ACTIVITIES & HONORS

Colorado Coalition for the Homeless
Board Member

ARTICLES & PRESENTATIONS

Articles

- "Trial by Webcam: Tips From a Firsthand Experience," Law360 (May 28, 2020)
- Litigation Funding: Business Protection in Uncertain Times
- Hoping for the Best, While Preparing for the Worst: Addressing Resource Shortages During a Crisis
- Some (Minor) Relief In Sight: Secretary Issues 1135 Waiver of EMTALA's Medical Screening and Transfer Requirements
- PREP Act: Healthcare Providers, Labs, and Behavioral Facilities May Invoke Immunities Related to Testing and Treatment of Coronavirus Patients
- Coronavirus: Inevitable Future Litigation Involving the Healthcare Industry
- Your Options When The Coronavirus Impacts Contractual Performance
- "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

- "Breaking Bad, All the Time: White Collar Crime Problems for Business Lawyers," panel presented at the Network of Trial Law Firm's Litigation Management, Defend and Protect seminar (November 2013).
- "Not in That Backyard: A Practitioner's Guide to Venue Challenges and Enforcing Forum-Selection Clauses," presented to 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