



TAMERA D. WESTERBERG

Partner

westerberg@wtotrial.com | P 303.244.1963 | F 303.244.1879

Tammy Westerberg represents clients in sophisticated commercial litigation. Her practice includes complex contract disputes, competition-related issues, business divorces, consumer fraud, employment, investigations, professional liability--in particular for lawyers and law firms--and other business tort claims. Tammy is listed in The Best Lawyers in America, Benchmark Litigation and Colorado Super Lawyers.

EDUCATION

University of Denver Sturm
College of Law, J.D., 1998
Law Review, General Editor
American Jurisprudence Award,
Constitutional Law I & II

Whittier College, B.A., 1992,
Major in Political Science; Minors
in Music Performance and
Psychology

OTHER EXPERIENCE

Hogan & Lovells LLP
Kamlet Shephard & Reichert,
LLP
Brownstein Hyatt & Farber, P.C.
Petrie Bauer Vriesman & Hecht
LLP

ADMISSIONS

Colorado

HIGHLIGHTS

- Won summary judgment on all claims, and counterclaim for malicious prosecution of those claims, asserted in long-standing family dispute arising out of a partition of a 56,000 acre ranch straddling Colorado and New Mexico.
- Successfully settled \$40 million dispute involving claims for breach of contract, breach of fiduciary duty, defamation and fraud, with no monetary obligation.
- Won motion for attachment of settlement and judgment proceeds for foreign client resulting from claims of fraud and civil theft, and corresponding settlement of complex, multi-entity partnership dispute arising out of ownership and management issues.
- Obtained *ex parte* injunctive relief in business divorce involving claims of breach of fiduciary duty, theft of health records, breach of contract and other business torts, resulting in a favorable settlement and separation of the partnership interests and assets.
- Successfully negotiated settlement of a multimillion-dollar dispute arising out of broker-dealer's termination from employment at Fortune 500 company with no monetary obligation.
- Successfully represented financial services company in various securities investigations.
- Won appeal of a wrongful termination lawsuit involving the public policy exception to employment at will.

INDUSTRIES

- Energy
- Financial Services
- Construction & Engineering
- Professional Services
- Oil & Gas
- Consumer Products & Services
- Legal Services
- Real Estate

PRACTICE AREAS

- Commercial Litigation
- Appellate
- Employment
- Investigations & Compliance
- Professional Liability

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BIOGRAPHY

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Early in her career, Tammy spent several years handling M&A and other corporate matters. Clients appreciate her first-hand experience and familiarity with the transactional and related issues that lie at the heart of many commercial and professional malpractice lawsuits.

Additionally, Tammy's experience includes corporate governance matters, contract and partnership disputes, internal investigations, and litigation and counseling related to consumer protection issues. In this capacity, she advises clients on quasi criminal litigation and investigations with an eye toward potential civil litigation that could follow.

CASES

Commercial Litigation

- Successfully settled \$40 million dispute involving claims for breach of contract, breach of fiduciary duty, defamation and fraud, with no monetary obligation.
- Successfully represented financial services company in various securities investigations.
- Won summary judgment on multiple claims for a national dermatology practice with over 50 offices. Claims included breach of contract, conspiracy, fraud, and other allegations. Once the major claims were dismissed, the plaintiffs agreed to a nuisance settlement that involved no payment by WTO's client.
- Served on a trial team for commercial matters for a large automobile manufacturer.
- Won a motion for temporary restraining order and preliminary injunction related to the sale of pipelines in Mexico against seller's attempt to sell property to third party in Texas.
- Successfully represented a construction materials manufacturer and installer in several commercial contract and construction defect claims.
- Represented a large steel manufacturer in a case filed by the Attorney General of Colorado alleging significant consumer protection act violations and seeking millions of dollars, resulting in minimal damages awarded.
- Represented a large transportation company for several years in its dissolution with a former business partner, and in contract disputes and negotiations with local contracting authorities.
- Secured appellate affirmance of the dismissal of a commercial case involving a bank's leasing division and allegations of consumer fraud.

TAMERA D. WESTERBERG

- Successfully represented a construction management company in a large, public housing development dispute in Texas.
- Successfully represented various entities and individuals in government investigations involving claims of securities fraud, healthcare industry violations, consumer protection violations, and fiduciary violations.
- Represent residential property owners in fraud and breach of contract claims against seller arising out of failure to disclose significant mold and water intrusion before sale.
- Successfully managed settlement negotiations for large financial debt relief company in significant litigation filed by Colorado Attorney General alleging consumer fraud and statutory violations.

Employment & Competition

- Successfully negotiated settlement of a multimillion-dollar dispute arising out of broker-dealer's termination from employment at Fortune 500 company with no monetary obligation.
- Won affirmance preserving WTO's trial court dismissal of a wrongful termination lawsuit involving the public policy exception to employment at will.
- Successfully tried to a jury an unfair gas pricing case for two locally owned gas station/convenience stores in federal court.
- Represented a private equity company and three individuals involved in the distressed debt industry in a case asserting a multimillion-dollar damage award for alleged misappropriation of trade secrets. The three-year litigation was complex and contentious, involving claims asserting substantial trade secret violations, as well as fiduciary duty, contract, and other tort claims.
- Obtained a preliminary injunction enforcing WTO's client's non-competition agreement with a former employee after a two-day hearing in Jefferson County, Colorado.
- Represented an information services company in obtaining a voluntary temporary restraining order and preliminary injunction against two former employees in connection with trade secret, noncompete and other contract-related claims.
- Represented several companies in a variety of industries in enforcing non-compete and non-solicitation provisions in employment contracts, as well as advice and counseling in relation to such provisions.
- Represented a large financial investment firm in connection with claims against a former broker in connection with alleged fraud, fiduciary duty and negligent supervision claims.

Oil & Gas

- Successfully managed settlement negotiations for an oil and gas client facing divergent concerns from two sets of plaintiffs. WTO worked closely with our client to develop a detailed surface use agreement providing access to underlying resources while also addressing fugitive dust concerns.

TAMERA D. WESTERBERG

- *Belmont v. BP America Production* (D. Wyo. 2015) - Defeated class certification for BP in a natural gas royalties underpayment case heard in federal court in Wyoming.
- Represented BP in several class actions involving underpayment of royalties and other contractual disputes.
- Won a reversal from the Tenth Circuit in favor of BP in a case alleging underpayment of royalties.

Legal Malpractice

- Successfully represented several lawyers and law firms in nine different actions involving complex allegations of professional negligence in various issues, including contract, fiduciary duty, fraud, consumer protection, and others.
- Successfully resolved a professional liability case involving a contested dissolution action without any lawsuit or monetary settlement. The putative plaintiff was seeking over \$30 million in damages.
- Successfully resolved a professional liability action involving complex real estate transactions, allegations of fraud, and breach of fiduciary duties.
- Represented an international law firm and lawyers in a multidefendant action involving claims for professional negligence, constitutional and statutory violations, and conspiracy among private entities, individuals, and governmental entities and representatives, arising out of a public-private partnership and contract.
- Represented a Canadian law firm in a professional negligence action against several defendants arising out of failed securities transactions.
- Obtained a complete dismissal and an award of attorneys' fees in a legal malpractice case involving several defendants and other claims of defamation and campaign violations.

Other Relevant Experience

- Won summary judgment on all claims, and counterclaim for malicious prosecution of those claims, asserted in long-standing family dispute arising out of a partition of a 56,000 acre ranch straddling Colorado and New Mexico.
- Won motion for attachment of settlement and judgment proceeds for foreign client resulting from claims of fraud and civil theft, and corresponding settlement of complex, multi-entity partnership dispute arising out of ownership and management issues.
- Obtained *ex parte* injunctive relief in business divorce involving claims of breach of fiduciary duty, theft of health records, breach of contract and other business torts, resulting in a favorable settlement and separation of the partnership interests and assets.
- Successfully represented a university in a grand jury investigation regarding various school scandals.
- Represented a Texas limited partnership in a disputed family partition action in New Mexico and Colorado.

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BAR & COURT ADMISSIONS

Colorado
U.S. Court of Appeals, 10th Circuit
U.S. District Court, D. Colorado

LEGAL MEMBERSHIPS, ACTIVITIES & HONORS

The Best Lawyers in America
Commercial Litigation, 2017-2020
Legal Malpractice Law - Defendants, 2020
Colorado Super Lawyers
Business Litigation, 2017-2020
Top 50 Women, 2015-2020
Top 100, 2018-2020
Professional Liability Defense, 2013-2016
Benchmark Litigation
Future Star - Colorado, 2015-2018
Colorado Rising Stars
Business Litigation, 2009-2011
Law Week Colorado - One of Six Top Women Lawyers of 2015
American Bar Foundation, Fellow
American Bar Association
Colorado Bar Association
Colorado Women's Bar Association
CWBA's Circle of Minerva
Denver Bar Association
International Association of Defense Counsel (IADC)
Defense Research Institute
American Inns of Court
University of Denver Sturm College of Law Alumni Council
Judge William E. Doyle American Inn of Court
Former Member
University of Denver Regional Moot Court Competition
Attorney Advisor
Metro Volunteer Lawyers
Pro bono representation
The Gathering Place Women's Shelter
Pro bono representation

COMMUNITY MEMBERSHIPS, ACTIVITIES & HONORS

University of Denver, School of Law, Alumni Council, 2018-2021
Girls on the Run, Coach, 2015-2016
Stanley British Primary School
Governance Committee/Committee of the Trustees, 2018-2019
Strategic Planning Committee, 2013-2015

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Paddington Station Preschool
Board of Directors, 2012-2014
Colorado Children's Campaign Circle of Friends
Board of Directors, 2011-2014
Legislative Liaison, 2011-2014
Denver Botanic Gardens
Fete des Fleurs Committee, 2009-2012
Downtown Denver Partnership
Emerging Leaders Program
SafeHouse Denver, Inc.
Board of Directors, 2000-2007
Metro Denver Sports Commission Charities Board
Board of Directors, 2003-2007
Girls' Sports International
Board of Directors, 1999-2001
Greenlee Elementary School Tutoring Program
Participant
Cheltenham Elementary Literacy Program
Participant
Leukemia & Lymphoma Society
Team in Training, Participant
Outward Bound Team Relay
Participant, 2004 and 2006
Tri-for-the-Cure
All Women Triathlon, Participant, 2008

ARTICLES & PRESENTATIONS

- Conflicts of Interest: Take Heed and Avoid Jury Wrath
- "When Good Lawyers do Bad Things," presented at the Workers' Compensation Spring 2018 Update (March 9, 2018).