



BRIAN S. OSTERMAN

Of Counsel

osterman@wtotrial.com | P 303.244.1820 | F 303.244.1879

Brian Osterman strategically leads clients through catastrophic medical malpractice cases and complex commercial litigation. He has taken more than 100 depositions across the country. He also has considerable experience preparing and defending witnesses to testify in both deposition and trials. He also has significant experience working-up 30(b)(6) corporate representative witnesses. Brian has prepared several high exposure cases for trial that ultimately led to favorable settlements.

EDUCATION

Notre Dame Law School, J.D.,
2011, *cum laude*

Boston College, B.A., 2008,
Political Science, *cum laude*

OTHER EXPERIENCE

Martin Clearwater & Bell LLP
United States Attorney's Office,
Western District of New York,
Summer Clerk

ADMISSIONS

Colorado
New Mexico
New York

HIGHLIGHTS

- Won walkaway dismissal for a physician in an \$85 million birth injury case.
- Won dismissal on summary judgment—including an award of attorneys fees—in a case involving medical malpractice and breach of contract claims.
- Won favorable settlement for a New Mexico healthcare client in a medical malpractice case after inheriting the case less than two months before expert disclosures.
- Won favorable settlement for a New Mexico hospital in a multimillion dollar case involving medical malpractice and unfair trade practices claims.
- Won favorable settlement for a healthcare client in a \$64 million birth injury case in Maryland.
- Won dismissal of all claims of vicarious liability and apparent agency for a hospital in multimillion dollar case in New Mexico.
- Drafted a winning amicus brief for the Colorado Defense Lawyers Association in an alleged medical malpractice case against a chiropractor.

INDUSTRIES

- Healthcare

PRACTICE AREAS

- Commercial Litigation
- Appellate
- Healthcare Professional Liability
- Personal Injury Defense

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BIOGRAPHY

Brian Osterman strategically leads clients through catastrophic medical malpractice cases and complex commercial litigation. He has taken more than 100 depositions across the country and has considerable experience preparing and defending witnesses. Brian has also prepared several high exposure cases for trial that ultimately led to favorable settlements.

Brian represents healthcare industry clients in catastrophic medical malpractice lawsuits involving extremely high stakes. He also represents corporations and recreation industry clients in commercial litigation and personal injury lawsuits. He has extensive experience winning summary judgment and other dispositive motions. Brian also regularly orchestrates favorable settlements, often at a small fraction of the demand. Brian has gained considerable experience obtaining summary judgment, winning through dispositive motions, and negotiating favorable settlements.

Prior to joining WTO, Brian spent five years as an associate at a New York litigation firm.

CASES

- Won walkaway dismissal for a physician in an \$85 million birth injury case.
- Won dismissal on summary judgment—including an award of attorneys fees—in a case involving medical malpractice and breach of contract claims.
- Won favorable settlement for a New Mexico healthcare client in a medical malpractice case after inheriting the case less than two months before expert disclosures.
- Won favorable settlement for a New Mexico hospital in a multimillion dollar case involving medical malpractice and unfair trade practices claims.
- Won favorable settlement for a healthcare client in a \$64 million birth injury case in Maryland.
- Won dismissal of all claims of vicarious liability and apparent agency for a hospital in multimillion dollar case in New Mexico.
- Drafted a winning amicus brief for the Colorado Defense Lawyers Association in an alleged medical malpractice case against a chiropractor.
- Represent ski and snowsports recreation clients in personal injury matters.
- *Fox v. Alfini et al.*, 2018 CO 94 (Colorado Supreme Court) - Drafted a winning amicus brief for the Colorado Defense Lawyers Association in an alleged medical malpractice case against a chiropractor that establishes, for the first time, that a third party's involvement in a conversation between an attorney and a client waives the attorney-client privilege, unless the third party's presence is reasonably necessary to facilitate the communication.
- Obtained voluntary dismissal for a defendant physician in a multimillion dollar medical malpractice action.

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- Following WTO's motion for summary judgment, obtained nuisance value settlement of professional liability claims of \$5 million against a New Mexico hospital.
- Obtained early voluntary dismissal of hospital in a \$25 million medical malpractice action.
- Won a motion to dismiss for a hospital client in New York in a matter of first impression involving Emergency Medical Treatment and Labor Act (EMTALA) claims in the Second Circuit. The Court affirmatively ruled that the hospital's obligations under EMTALA ceased upon admitting the plaintiff.
- Obtained multiple dismissals of Section 1983 claims, including one case in which a New York City police officer alleged he had been involuntarily hospitalized in retaliation for whistleblower claims.
- Obtained dismissal of claims against a private hospital, establishing an exception to the traditional rule of vicarious liability in New York State.

BAR & COURT ADMISSIONS

Colorado

New Mexico

New York

U.S. District Court, D. Colorado

U.S. District Court, D. New Mexico

U.S. District Court, E.D. New York

U.S. District Court, S.D. New York

U.S. District Court, W.D. New York

LEGAL MEMBERSHIPS, ACTIVITIES & HONORS

Denver Bar Association

Colorado Bar Association

Colorado Defense Lawyers Association

Faculty of Federal Avocates

New York Super Lawyers

Rising Star, 2016

New York State Bar Association

New York State Attorney General's Triple "C" Award

Colorado Notre Dame Lawyers' Committee

COMMUNITY MEMBERSHIPS, ACTIVITIES & HONORS

Denver Health Foundation

Next Generation Giving, Board Member

Notre Dame Club of Denver

University of Denver Sturm College of Law Mentor

PERSONAL INTERESTS

Sports, reading, history, spending time with family

