



REBECCA GRAVES PAYNE

Of Counsel

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BIOGRAPHY

Rebecca Graves Payne represents clients in complex legal malpractice and professional liability matters, bringing significant appellate and brief writing experience. Rebecca has served on several successful teams defending lawyers and law firms against malpractice, particularly in cases involving significant damages.

Rebecca also represents sophisticated clients in commercial litigation, including business torts and intellectual property disputes. Most recently, she briefed two winning cases in the Colorado Supreme Court.

EDUCATION

Washington and Lee University
School of Law, J.D., 1992, *cum laude*, National Moot Court Team, Awarded Best Brief in Davis Moot Court Competition

Duke University, B.A., 1987,
Political Science and French,
cum laude

GOVERNMENT SERVICE

Career Clerk, U.S. Magistrate
Judge N. Reid Neureiter, U.S.
District Court for the District of
Colorado

OTHER EXPERIENCE

Husch Blackwell Sanders LLP
Jacobs Chase LLC
Jackson Kelly PLLC

ADMISSIONS

Colorado
West Virginia (Inactive)

PRACTICE AREAS

- Legal Professional Liability
- Appellate
- Commercial Litigation
- Professional Liability
- Intellectual Property

CASES

- *Sunflower Condo. Ass'n v. Owners Ins. Co.*, No. 18-1478, 2020 WL 598981 (10th Cir. Feb. 7, 2020) - Won a significant appeal for Owners Insurance Company against a condominium association that filed an inflated insurance claim and sought more than \$5 million in total damages.
- Won an arbitration award for a lawyer and law firm against malpractice claims related to a 2014 real estate deal. Claimants asserted damages of \$3 million plus interest. The arbiter ruled for WTO's client and found that no malpractice occurred.
- Won a complete defense verdict for a lawyer and law firm accused of malpractice in the handling of a sale of interests in the plaintiff's company.
- Successfully obtained a Rule 12(b) dismissal of a complaint filed against two law firms in Colorado state court.
- Won a complete defense jury verdict for a major auto parts manufacturer in federal court in Kentucky. WTO was called in just six months before trial in this protracted contract dispute that had already included two trips to the Sixth Circuit.
- Won a unanimous opinion from the Colorado Supreme Court that strongly upholds Colorado's strict privity rule in determining whether non-client beneficiaries may sue an estate lawyer for malpractice or professional liability. In its opinion, the Court adopted the most stringent test, as WTO advocated, and affirmed that the plaintiffs lacked standing to sue our clients.
- *EPMM Colorado v. Green Cross Colorado* (Denver Cnty. Dist. Ct. 2015) - Won reversal of a TRO that had been issued *ex parte* at the close of business on a Friday, effectively shutting down operations for a major manufacturing and distribution client, and subsequently won rejection of the injunction against WTO's client.
- *Bristol Bay Productions v. Lampack* (Colo. Denver Dist. Ct. 2008) - Won dismissal from trial court for publisher Simon & Schuster in a case involving a movie studio's \$50 million damages claim relating to the movie Sahara and alleging false representation of popular novelist Clive Cussler's readership figures.

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- Drafted successful petition for *certiorari* to the Colorado Supreme Court in legal malpractice case involving third-party beneficiary breach of contract claim, and ultimately won a unanimous opinion from the Colorado Supreme Court confirming that the strict privity rule bars claims by non-clients against attorneys absent a showing of fraud, malicious conduct, or negligent misrepresentation.

COMMUNITY MEMBERSHIPS, ACTIVITIES & HONORS

Miners Alley Playhouse
Board of Directors

ARTICLES & PRESENTATIONS

Articles

- Co-Author, Chapter 24, "Legal Malpractice," *Cause of Action Treatise, Continuing Legal Education in Colorado, Inc.* (2017)
- Co-Author, "Colorado's Current Formulation of the Economic Loss Rule Bars Claims for Post Contractual Fraud," *The Colorado Lawyer* (December 2012)
- "Admissibility of Testimony Concerning the Truthfulness or Untruthfulness of a Witness," *The Colorado Lawyer* (December 2006)
- "Investigative Tactics: They May Be Legal, But Are They Ethical?," *The Colorado Lawyer* (January 2006).

Presentations

- Speaker at "Behind the Bench - A Clerk's Panel, Practice Tips and Insights," Faculty of Federal Advocates, February 13, 2019
- Speaker at Arapahoe County Bar Association's 2016 Spring CLE, on Attorney Liability to Non-Clients
- Speaker at CLE International's 11th Annual Ethics Seminar, December 11, 2006 Denver, Colorado, on Ethical Ramifications of Investigations

PERSONAL INTERESTS

Running, reading, cooking, and spending time with her two children