

LAW WEEK

COLORADO

WTO Partners Rack Up Defense Wins

Management team tallies three wins in two weeks



WTO PARTNERS CAROLYN FAIRLESS, HUGH GOTTSCHALK AND MIKE O'DONNELL WRAPPED UP FULL DEFENSE VERDICTS IN NOVEMBER.

PHOTO: LAW WEEK, HANNAH GARCIA

BY HANNAH GARCIA
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Three attorneys from Wheeler Trigg O'Donnell pulled out full defense verdicts in the span of two weeks, and they all happen to be part of the firm's management team.

Partner and chairman Mike O'Donnell was victorious in a \$20 million tire defect case that ended Nov. 19, while partner and president Hugh Gottschalk successfully argued for claims against his client to be thrown out in an oil-and-gas dispute and managing partner Carolyn Fairless defended a bottle distributor against injury claims the same week she had oral arguments at the Colorado Supreme Court.

As a matter of firm philosophy, Gottschalk said the firm's managers are also full-time trial lawyers.

"My credibility as a manager, as a leader of this firm, it's almost essential that I do what other people in the firm are doing, both because I love to try cases and I think it makes us better managers," Gottschalk said.

"If you look at our hours reports

every month, and you tried to determine solely on the hours report who was in management and who wasn't, you would not be able to do that," Fairless said.

In an Arizona state court, O'Donnell represented Michelin North America in a lawsuit brought by a plaintiff who sustained severe injuries in a rollover accident after a tread separation. She requested \$5 million in compensatory damages and \$15 million in punitive damages for alleged defects.

O'Donnell, along with Ed Stewart and Theresa Wardon from Wheeler Trigg, argued other factors including chronic under-inflation led to the accident.

"Michelin hasn't tried a case in a few years, and their intent is to try more cases. This was the first one under that philosophy," O'Donnell said. "Some companies find it expedient to just settle, but Michelin wanted to defend its engineers and what they believe is a reasonably safe product in the marketplace. They're not necessarily taking the easy way out."

Gottschalk led the defense for Noble Energy in a dispute over trade secret misappropriation. The Rock Investment Group, or TRIG, claimed theft of technical geological data allowed Noble to acquire several thousand acres of oil and gas leases in northeast Nevada and more than \$1 billion in damages.

The trial began Nov. 2 and ended four days later after Gottschalk successfully argued for a directed verdict. Denver District Court Judge John Madden told Gottschalk it was the first directed verdict motion he had granted in a civil case in his nine years on the bench.

"Evidence and discovery in trial demonstrated that we'd independently done our own research, and in fact during the whole process, had never even heard of this other company," Gottschalk said.

Fairless' victory was in a Douglas County courtroom and involved a 67-year-old woman claiming a permanent traumatic brain injury after a display of 24-packs of soda fell on her at

a big box retailer in 2010. The plaintiff requested \$750,000 in damages, and while a partial verdict was awarded against the retailer, the jury assigned no fault to Fairless' client, Pepsi Bottling Group.

On Nov. 3, the first day of the six-day trial, Fairless selected a jury in Douglas County then rushed back to Denver for oral arguments in another case in front of the Colorado Supreme Court. "It presented an interesting conundrum," Fairless said. The jury was picked by noon, and oral arguments were slated for 1:30. "I didn't even eat lunch. I ate a granola bar and jumped in a car to rush back."

Fairless also worked with a new attorney on the case, allowing her to argue a directed verdict motion the day after her bar swearing in ceremony on Nov. 9.

"We really do try to train our young lawyers," Fairless said. "We didn't get the directed verdict, but that had nothing to do with her argument. She did very well." •

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