

LAW WEEK

COLORADO



JOEL NECKERS

Wheeler Trigg O'Donnell

Specialties:

Class Actions, Commercial Litigation

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In a year when virtual courtroom fumbles have gone viral, Joel Neckers quickly mastered the art of the remote trial. The Wheeler Trigg O'Donnell partner won one of the country's first fully remote trials in May, an achievement he said has been "one of the biggest victories of [his] career so far."

His client in the case was United Power, a Brighton-based rural electric cooperative that wanted to exit its contract with Tri-State Generation and Transmission to gain access to cheaper power on the market, more flexibility and more options for greener and cleaner energy, according to Neckers. United Power offered \$235 million as an "exit fee," but Tri-State demanded \$1.25 billion to leave the agreement, and United Power filed a complaint with the Colorado Public Utilities Commission.

Neckers, who served as co-lead counsel for United Power, was set to try the case in March 2020, but COVID-19 had other plans. The trial was moved to May, giving Neckers a little over a month to adapt his team's approach for a new virtual format. According to colleagues, Neckers experimented with the videoconferencing software and extra tablets, headphones and other equipment to prepare for the "inevitable hiccups" that happen with virtual meetings.

"The overarching lesson ... is that you can be equally as effective in a video trial as you can in person," Neckers said. "It's just a matter of changing your mindset and being willing to be flexible and adapt."

The three-day trial included testimony from 11 live witnesses and the presenta-

tion of thousands of pages of documents, and a big part of preparing for virtual trial involved experimenting with different ways of presenting the witnesses and evidence. Neckers became so adept at using the technology that opposing counsel asked him to display their own exhibits during witness examinations, "which I was happy to do to help make the trial run efficiently and smoothly," he said.

United Power prevailed, making it possible for the cooperative to leave Tri-State. In addition to being one of the country's first remote trials, the trial was one of the first involving a cooperative seeking to exit a generation and transmission association, according to a WTO news release, and "[g]oing forward, electric cooperatives, courts, and regulators across the nation will look to Colorado for guidance as these disputes escalate."

Neckers also helped an alternative energy company prevail in a case involving former employees who had embezzled more than \$750,000 from the client.

The client won on summary judgment following a remote preliminary injunction hearing.

"It's an important case for the client simply because they have a lot of employees all over the place," Neckers said. "And when someone steals money from them — and that's exactly what happened — you need to make sure people are held to account for that, so it doesn't happen again."

In addition to his virtual courtroom wins, Neckers said anticipating COVID-related legal issues and quickly bringing clients up to speed on them has been one of his proudest accomplishments of the past year. "I think

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that's part of what being outside counsel is — it's part of being what a good trial lawyer is — is peering around the corners and understanding what's coming down the pipe," he said.

Neckers grew up in Michigan, where his father was a commercial litigator. One of his earliest childhood memories is being asked what he wanted to do when he grew up and saying, "I want to be an 'oiler' like my dad." "I grew up with him as an example and a cousin and an uncle who were lawyers," he said, adding he never really thought he would do anything else.

He earned a law degree from the University of Michigan Law School in 2004, clerked for a federal judge in Michigan and then worked for a big firm in Chicago for three years before joining WTO in 2008. The move to Denver was largely motivated by personal interest and family ties, Neckers said, and the city "offers a good platform to have both a local and national practice."

Neckers has a broad practice that in-

cludes commercial litigation, class actions, medical malpractice and professional liability defense. Colleagues praise his relentless work ethic and "superhuman" efforts, and one WTO partner said, "We often joke that he may not actually be human, but in fact a cyborg terminator sent from the future." His nomination form noted that in addition to working the long hours typical of high-powered litigators, Neckers once visited dozens of "musty basements" around the country searching for evidence in a case involving alleged defects in washing machines.

Somehow, he still finds time to serve the community. Since 2009, Neckers has volunteered with the Colorado Coalition for the Homeless. He was recently elected chairman of the board and will oversee CCH in that role for a three-year term, and he has previously served as vice chair, provided pro bono legal counsel and planned fundraisers for the organization. •

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