

# 2010 REVIEW



“Wheeler Trigg O’Donnell  
is a first-rate team with  
tremendous depth.”

—A *Chambers USA* Source



Wheeler Trigg O'Donnell LLP

TRIAL TESTED™



WTO won first place for medium-sized companies in the *Denver Business Journal's* annual survey of "Best Places to Work in Denver" and was the highest ranked law firm in all company-size categories.

**TO OUR CLIENTS AND COLLEAGUES,**

Whether you are a client, other professional colleague, employee, or a friend of our firm, we appreciate your role in making our 13th year in business our most successful and exciting year yet.

We happily worked harder than ever this year on behalf of our clients. Our lawyers tried nine jury trials, three bench trials, and 38 arbitrations to a decision in 15 states across the country. We added 14 new lawyers and grew overall by 21% to serve our clients more efficiently and effectively.

We are pleased to report on the positive recognition bestowed on WTO lawyers and staff this past year. The inaugural rankings from U.S. News/Best Lawyers listed WTO as a top firm in Colorado in several practice areas. Colorado Super Lawyers included seven WTO partners among the top 50 lawyers in Colorado on its 2011 list published in March. Two of those seven placed among the top 10 lawyers and one placed among the top 25 women lawyers in Colorado. WTO won the number one spot in the medium-sized company category, and the top law firm in all size categories, in the annual Denver Business Journal's Best Place to Work competition.

The following pages provide a sampling of the services and results we provided our clients in 2010.

We look forward to continued opportunities to work together with our professional colleagues and to engage our passion for trial advocacy and complex litigation for the benefit of our clients.



*Mike O'Donnell*

Michael O'Donnell, Chairman



*H. Gottschalk*

Hugh Gottschalk, Managing Partner

**REPRESENTATIVE CLIENTS**

- |                        |                          |                            |                             |                           |                            |
|------------------------|--------------------------|----------------------------|-----------------------------|---------------------------|----------------------------|
| ACE USA                | Bill Barrett Corporation | Credit Suisse First Boston | FedEx Ground Package System | Georgia-Pacific           | High net-worth individuals |
| Advanced Bionics       | Boston Scientific        | Crocs                      | Financial Indemnity Company | GeoSyntec Consultants     | Honda                      |
| Aerofit                | BP America Production    | Crown Equipment            | First Data                  | Global Aerospace          | Honeywell                  |
| AIG                    | Celotex                  | Dana Corporation           | FMC                         | GMAC Insurance            | Howmedica                  |
| Allied Group           | Chrysler Group           | Dunlop Tire                | Ford Motor                  | Great-West Life           | ING                        |
| Allstate Insurance     | CNA Insurance            | DuPont                     | Foster Wheeler              | Group 1 Automotive        | JM Eagle                   |
| Amica Mutual Insurance | ConocoPhillips           | El Paso Corporation        | GE Healthcare               | Guidant                   | Johns Mansville            |
| Anheuser-Busch         | Continental Airlines     | Eli Lilly                  | General Electric            | GuideOne Insurance        | Kubota Tractor             |
| Apple Computer         | Cooper Industries        | EnCana                     | General Motors              | Harco Insurance           | Larry H. Miller Group      |
| AT&T                   | CoorsTek                 | Encompass Insurance        |                             | HCA                       | Lawyers and law firms      |
| Axis Insurance         | COPIC                    |                            |                             | Health care professionals |                            |

## PARTNERS



Michael Alper



Sean Baker



Scott Barker



Galen Bellamy



Miko Ando Brown



Mark Clouatre



Andrew Efaw



Carolyn Fairless



John Fitzpatrick



Hugh Gottschalk



James Hooper



LaMar Jost



Steven Kelso



Kevin Kuhn



Raymond Martin



Craig May



Andrew Myers



Erik Nadolink



Habib Nasrullah



Michael O'Donnell



Marsha Piccone



Terence Ridley



Edward Stewart



Jack Trigg



John Vaught



Julie Walker



Malcom Wheeler



Michael Williams



Gwen Young

## LAWYER NEWS

**Scott Barker** joined the firm as a partner in July. A Rhodes scholar, Harvard Law School graduate, and Fellow in the American College of Trial Lawyers, Scott practiced litigation for 29 years at the Rocky Mountain regional firm of Holland & Hart where he was a chairman of the management committee and a chairman of the litigation department. At WTO, Scott focuses his practice on litigation involving natural resources and complex commercial matters.

**Miko Ando Brown** was promoted to partner January 1, 2011. A 2001 graduate of the University of Pennsylvania Law School, she clerked in the U.S. District Court for the District of Colorado and practiced at two distinguished national law firms before joining WTO. Miko practices in the areas of product liability and complex commercial litigation.

**LaMar Jost** was promoted to partner January 1, 2011. A 2002 graduate of the University of Wyoming College of Law, he clerked in the U.S. District Court for the District of Wyoming and the U.S. Court of Appeals for the Tenth Circuit before joining the firm. As a member of several national trial teams, LaMar handles product liability, mass torts, medical malpractice, and commercial litigation cases.

**Nancy Cohen** joined the firm as of counsel in June. A University of Denver Law School graduate, Nancy was in private practice for 17 years before joining the Colorado Supreme Court Office of Attorney Regulation where she was the Chief Deputy Regulation Counsel. At WTO, Nancy focuses her practice on complex commercial and professional liability litigation.

### Twelve associates joined the firm in 2010 and early 2011:

**Kelly Anderson** (Georgetown 2009, Tenth Circuit Court Clerk) • **Jason Astle** (Denver 2006, Colorado Supreme Court Clerk, U.S. District Court Clerk for the Southern District of New York) • **Kendra Beckwith** (Denver 2008, Colorado Court of Appeals Clerk) • **Michele On-ja Choe** (Iowa 2003, Eight Circuit Court Clerk, Sidley Austin alumna) • **Michael Davis** (Iowa 2004, Tenth Circuit Court Clerk, Greenberg Traurig alumnus) • **Dia Draper** (Loyola 2006, O'Melveny & Myers alumna) • **Matthew Johnson** (Northwestern 2005, Latham & Watkins alumnus) • **Edwin Kilpela** (Michigan 2005, Williams & Connolly alumnus) • **Stephanie Reedy** (Denver 2001, Ninth Circuit Court Clerk, Arnold & Porter alumna) • **Kenneth Stalzer** (Chicago 2007, Ph.D. Stanford 2005, Schiff Hardin alumnus) • **Matthew Stevens** (Chicago 2001, Sullivan & Cromwell alumnus, Skadden alumnus) • **Katherine Yarger** (Duke 2008, Colorado Supreme Court Clerk, Tenth Circuit Court Clerk)

 WheelerTriggO'Donnell LLP

Leslie Controls  
Lockheed Martin  
Mack Trucks  
Marriott Hotel Services  
Maytag  
Mazda  
McKesson  
Media News Group  
Medical Protective  
MedStar  
Mercedes-Benz

Merck  
Meritain  
MetLife  
Mitsubishi  
Motor Coach Industries  
Munich Reinsurance  
MWH Global  
Nationwide Insurance  
New Global Telecom  
Nissan North America  
Northrop Grumman

Northwest Airlines  
OneBeacon Professional  
PACCAR  
Pepsi  
Pfizer  
PNC Mortgage  
Porsche  
Premier Insurance  
Proctor & Gamble  
PST Services  
Quest Diagnostics

Questar  
Qwest Communications  
Real estate developers  
Raptor Pharmaceutical  
Sears  
Security Life of Denver  
Spirit AeroSystems  
Subaru  
Swiss Re  
Terex  
Texas Instruments

The Hartford  
The Ritz Carlton, Denver  
TIG Insurance  
Time Insurance  
Titan Insurance  
Toyota  
Travelers  
U-Haul  
Unitrin Insurance  
Universal Health  
Services

University of Colorado  
USAA  
Velan  
Vestas Systems  
Volvo Trucks North  
America  
Westport Insurance  
Whirlpool  
Wyeth  
Yum! Brands

Trial Tested™ civil litigation firm Wheeler Trigg O'Donnell helps its clients resolve disputes that threaten their businesses, brands, products, people, and customers. WTO handles trials, appeals, arbitrations, and related areas of complex civil litigation, including class actions and multidistrict litigation, often as national or regional trial counsel, for many of the nation's best-known companies in a wide variety of industries, including:

Aerospace & Aviation

Asbestos

Automotive

Construction & Engineering

Consumer Products & Services

Distribution

Education

Energy

Financial Services

Health Care

Hospitality

Industrial Equipment

Insurance

Legal Services

Medical Devices

Natural Resources

Pharmaceuticals

Professional Services

Real Estate

Telecommunications

Transportation

Trucking

In 2010, WTO lawyers tried nine jury trials, three bench trials, and 38 arbitrations to a decision in 15 states across the country. Following are descriptions of these and some of our other litigation successes in the past year.

### Product Liability

**After a seven-week trial, a California jury handed down a unanimous verdict** for WTO's client, an international automobile manufacturer. The case involved a car manufactured by WTO's client that was struck in the rear by a plumbing truck going approximately 55 mph. The plaintiff, who was rendered quadriplegic in the crash, alleged that the seat system was defective. The jury rejected the plaintiff's claim.

*Best Lawyers 2011 ranks WTO number one in product liability litigation in Colorado.*

**A Colorado jury awarded a complete defense verdict** in favor of WTO's client, a major automobile manufacturing company. The plaintiff brought tort and punitive damage claims based on alleged sudden acceleration that resulted in a crash with injuries. WTO argued the crash was the result of driver error. This case was precedent-setting as it was the first electronic throttle-control defect claim in the country that the client had tried to verdict.

*Law360 selected Malcolm Wheeler as one of the 10 "most admired product liability lawyers" in the country.*

**WTO is one of 18 firms in the Pfizer Legal Alliance**, a network of law firms that handles Pfizer's litigation. Currently, WTO serves Pfizer as national trial

counsel in product liability litigation alleging wrongful death and personal injury related to certain medications made by Pfizer.

**As national coordinating and trial counsel to a leading manufacturer of neurostimulation devices**, WTO is handling the defense of dozens of product liability suits involving a highly complex Class III medical device.

*Chambers USA 2010 ranks WTO among the top 12 product liability practices in the nation.*

**WTO is national resolution and trial counsel to a Fortune 10 company** on hundreds of product liability cases involving a medical-imaging contrast agent purported to cause a rare and debilitating disease.

**As national coordinating and trial counsel to a generic pharmaceutical company**, WTO is handling ongoing product liability litigation related to a drug used to treat digestive ailments.

*U.S. News/Best Lawyers "Best Law Firms" list ranks WTO as the only top-tier product liability firm in Colorado.*

**WTO is representing a footwear manufacturer in ongoing product liability matters** involving foot injuries that allegedly occur because of defective design.

### Franchise And Distribution

**WTO developed and implemented the national strategy to respond to 418 arbitration requests** along with an East Coast law firm, between January and July 2010. As part of the bankruptcy of Chrysler LLC ("Old Chrysler"),

### RECOGNIZED IN 2010-2011 FOR PRODUCT LIABILITY PRACTICE

Miko Brown in *Colorado Super Lawyers Rising Stars* • John Fitzpatrick in *Best Lawyers, Chambers USA, Colorado Super Lawyers* • Hugh Gottschalk in *Best Lawyers, International Who's Who of Product Liability Lawyers* • James Hooper in *The Legal 500 US, International Who's Who of Life Sciences Lawyers, Colorado Super Lawyers* • LaMar Jost in *Colorado Super Lawyers Rising Stars* • Craig May in *Colorado Super Lawyers* • Erik Nadolink in *Colorado Super Lawyers Rising Stars* • Michael O'Donnell in *Best Lawyers, Chambers USA, The Legal 500 US, Colorado Super Lawyers* • Kara Rosenthal in *Colorado Super Lawyers Rising Stars* • Jack Trigg in *Best Lawyers, Chambers USA, International Who's Who of Product Liability Lawyers, The Legal 500 US* • Julie Walker in *The Legal 500 US* • Malcolm Wheeler in *Best Lawyers, Chambers USA, International Who's Who of Product Liability Lawyers, The Legal 500 US* • Michael Williams in *The Legal 500 US*





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### RECOGNIZED IN 2010-2011 FOR PERSONAL INJURY/TORTS PRACTICE

Miko Brown in *Colorado Super Lawyers Rising Stars* • John Fitzpatrick in *Best Lawyers, The Legal 500 US, Colorado Super Lawyers* • James Hooper in *Colorado Super Lawyers* • LaMar Jost in *Colorado Super Lawyers Rising Stars* • Kevin Kuhn in *Colorado Super Lawyers* • Craig May in *Colorado Super Lawyers* • Erik Nadolink in *Colorado Super Lawyers Rising Stars* • Michael O'Donnell in *Best Lawyers, Colorado Super Lawyers* • Marsha Piccone in *Colorado Super Lawyers* • Kara Rosenthal in *Colorado Super Lawyers Rising Stars* • Jack Trigg in *The Legal 500 US, Colorado Super Lawyers* • John Vaught in *Colorado Super Lawyers* • Julie Walker in *The Legal 500 US* • Malcolm Wheeler in *Best Lawyers, The Legal 500 US* • Michael Williams in *The Legal 500 US, Colorado Super Lawyers Rising Stars*

### RECOGNIZED IN 2010-2011 FOR PROFESSIONAL LIABILITY PRACTICE

Carolyn Fairless in *Colorado Super Lawyers (legal)* • Michael O'Donnell in *Best Lawyers, Colorado Super Lawyers (legal)* • John Fitzpatrick in *Best Lawyers, Colorado Super Lawyers (medical)* • Kevin Kuhn in *Best Lawyers, Colorado Super Lawyers (medical)* • Kara Rosenthal in *Colorado Super Lawyers Rising Stars (medical)*

Fiat, with the financial assistance of the U.S. and Canadian governments and Old Chrysler's union pension funds, formed Chrysler Group LLC ("New Chrysler"). With the bankruptcy court's approval, New Chrysler purchased the assets of Old Chrysler and assumed the dealer agreements of about 2400 of Old Chrysler's dealers. With the court's approval, Old Chrysler rejected the dealer agreements of the remaining 789 dealers.

The U.S. Congress passed a statute in December 2009 that provided the rejected dealers the right to demand arbitration from New Chrysler to be added back to its dealer network, even though the rejected dealers never were associated or had a contract or dealer agreement with New Chrysler. By federal statute, the arbitrations had to be completed within seven months of the enabling legislation's enactment. WTO was responsible for developing the strategic litigation plan, national themes, and theories for all arbitrations; creating briefing, witness examination, and argument templates and modules; coordinating local trial counsel; and developing expert witnesses and company witness preparation teams.

WTO directed the trial teams that litigated 187 of the New Chrysler arbitrations in the Western, Midwestern, and Southern regions of the United States. The firm tried to a determination 36 of the arbitrations, and won 24 of them. When the arbitration deadline had passed, only 32 of the total 418 rejected dealers who had demanded arbitration received a positive determination from an arbitrator.

*Law Week Colorado named WTO's Chrysler arbitration team led by Mark Cloutre, Hugh Gottschalk, Paul Hultin, Steven Kelso, and Gwen Young among its 2010 "Lawyers of the Year."*

**The U.S. District Court for the Southern District of New York granted summary judgment** in favor of WTO's client. The Court's ruling struck down legislation adopted by Maine and Illinois that provided that automobile companies could not award dealerships to new dealers without first offering the dealerships to the individual dealers whose agreements had been rejected during the former companies' bankruptcy proceedings. Although the ruling only applied directly to the statutes of those two states, the logic and legal conclusions set forth in the Court's opinion apply to similar legislation adopted by other states, including those in which WTO has filed additional lawsuits on its client's behalf.

**The U.S. District Court for the Eastern District of California denied a petition to compel arbitration** between WTO's client, an automobile

company, and a prospective buyer of one of its dealerships. Negotiations had broken down on an acceptable asset purchase agreement between the dealership and the prospective buyer.

### Personal Injury Defense

**A Louisiana jury returned a complete defense verdict** in favor of WTO's client, a large telecommunications company, in a premises liability case. The plaintiff, the mother of a two-year-old boy, alleged negligence and liability for a traumatic brain injury after an advertising sign in one of its stores fell on her son. After a failed mediation, the client called WTO to defend the case at trial. The jury found the mother failed to supervise her son.

*U.S. News/Best Lawyers "Best Law Firms" list ranks WTO in the first tier of personal injury defense firms in Colorado.*

### Professional Liability

**After a two-week trial in Denver District Court, a jury rendered a defense verdict** in favor of WTO's client, a Colorado heart surgeon. The allegations in this medical malpractice case involved injuries associated with an atrial fibrillation surgery.

*U.S. News/Best Lawyers "Best Law Firms" list ranks WTO as a top-tier professional liability firm in Colorado.*

**A Denver District Court jury delivered a defense verdict** in favor of WTO's client, a Colorado orthopedic surgeon. A plaintiff with a diseased cervical spinal cord claimed a screw placed in his cervical spinal canal caused him to have neurological deficits following surgery. The plaintiff's demand was for several million dollars, including eight years of pretrial interest that had been accruing.

*Best Lawyers named Michael O'Donnell "Denver legal malpractice lawyer of the year" for 2011.*

**WTO won an arbitration award in favor of its law firm client.** The arbitrator denied all legal malpractice claims against WTO's client and awarded it unpaid fees, plus interest, attorneys' fees, and costs.



## Commercial

**Following a trial on the merits, a Colorado court ruled in favor of WTO's client** on all issues of liability, causation, and damage in a complex real estate case involving claims and counterclaims filed before and during the real estate market crash.

*Chambers USA 2010 ranks WTO among the top four commercial litigation practices in Colorado.*

**The U.S. District Court for the Western District of Missouri dismissed allegations** of racketeering and misappropriation of trade secrets against WTO's clients, a prominent East Coast law firm and one of its partners.

**WTO secured a substantial settlement for its client**, a western real estate developer, who asserted that a large institutional investor fraudulently induced the developer to put millions into a project and then decided to quit participating in the project when the economy declined.

*U.S. News/Best Lawyers "Best Law Firms" list ranks WTO in the first tier of commercial litigation firms in Colorado and among the top 200 commercial litigation firms nationally.*

**WTO successfully settled a case against a national provider** of emergency roadside assistance. The plaintiff, who was injured when his disabled vehicle was struck from behind, claimed fraud and breach of contract.

## Insurance

**WTO secured a multimillion-dollar arbitration award** for its major insurance company client. The arbitration arose over the client's purchase of a health care network in Indiana. The matter involved a dispute over the estimated purchase price based on anticipated gross revenue. Following an arbitration in Chicago, the arbitrator awarded the full amount claimed by WTO's client.

**In a purported class action pending in Boulder County, Colorado**, District Court, WTO successfully represented two major insurance companies by securing judgment on their behalf, which was affirmed on appeal complaint during 2010. The allegations of the complaint, which were asserted against all major insurance carriers doing business in Colorado (six of which were represented by WTO), sought the recovery of all uninsured motorist premiums collected for more than one vehicle dating to 1979. The total amount of alleged damages sought exceeded \$100 million. The carriers were alleged to have committed fraud and other common law violations and violations of the Colorado Consumer Protection Act. In early 2008, WTO secured summary judgment on all claims against the two defendants. In late 2009, WTO successfully defended the judgment in the Colorado Court of Appeals. WTO continues to represent the other carriers in the action.

*U.S. News/Best Lawyers "Best Law Firms" list ranks WTO in the first tier of insurance law firms in Colorado and among the top 70 insurance practice law firms nationally.*

**In a case involving the complex interplay of primary insurance policies**, excess policies, and contractual indemnity provisions, the U.S. District Court for the District of Colorado entered summary judgment in favor of WTO's client from whom an industrial equipment supplier had sought additional insured coverage and indemnity payments related to serious burn injuries suffered by an equipment operator.

**WTO is handling ongoing insurance coverage and insurance bad faith litigation** relating to policies of commercial liability insurance and excess insurance on behalf of several major insurance carriers.

## Employment

**A jury issued a complete defense verdict on behalf of WTO's client**, a major telecommunications company, after a one-week trial in the U.S. District Court for the District of Colorado. The case involved important issues under the public policy exception to Colorado's employment-at-will doctrine. The plaintiff claimed

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### RECOGNIZED IN 2010-2011 FOR COMMERCIAL LITIGATION PRACTICE

Scott Barker in *Best Lawyers, Chambers USA, Colorado Super Lawyers* • Galen Bellamy in *Colorado Super Lawyers Rising Stars* • Mark Clouatre in *Colorado Super Lawyers* • John Fitzpatrick in *Chambers USA* • Hugh Gottschalk in *Best Lawyers, Chambers USA, Colorado Super Lawyers* • James Hooper in *Colorado Super Lawyers* • Steven Kelso in *Colorado Super Lawyers Rising Stars* (franchise) • Craig May in *Colorado Super Lawyers* • Joel Neckers in *Colorado Super Lawyers Rising Stars* • Habib Nasrullah in *Colorado Super Lawyers* • Michael O'Donnell in *Best Lawyers, Chambers USA* • Terence Ridley in *Colorado Super Lawyers* • David Schaller in *Colorado Super Lawyers Rising Stars* • Jessica Simbalenko in *Colorado Super Lawyers Rising Stars* • Jack Trigg in *Best Lawyers, Colorado Super Lawyers* • Andrew Unthank in *Colorado Super Lawyers Rising Stars* • John Vaught in *Best Lawyers, Colorado Super Lawyers* • Tamera Westerberg in *Colorado Super Lawyers Rising Stars* • Malcolm Wheeler in *Chambers USA, Colorado Super Lawyers* • Michael Williams in *Colorado Super Lawyers Rising Stars*

### RECOGNIZED IN 2010-2011 FOR INSURANCE PRACTICE

Terence Ridley in *Best Lawyers, Colorado Super Lawyers* • John Vaught in *Best Lawyers, Colorado Super Lawyers*





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### RECOGNIZED IN 2010-2011 FOR EMPLOYMENT LITIGATION PRACTICE

Raymond Martin in *Best Lawyers*, *Chambers USA*, *International Who's Who of Employment Lawyers*, *Colorado Super Lawyers*

### RECOGNIZED IN 2010-2011 FOR CLASS ACTION/MASS TORTS PRACTICE

Galen Bellamy in *Colorado Super Lawyers Rising Stars* • Scott Barker in *Best Lawyers* • John Fitzpatrick in *Best Lawyers*, *The Legal 500 US* • James Hooper in *The Legal 500 US* • Michael O'Donnell in *The Legal 500 US*, *Colorado Super Lawyers* • Marsha Piccone in *Colorado Super Lawyers* • Terence Ridley in *Colorado Super Lawyers* • Jessica Simbalenko in *Colorado Super Lawyers Rising Stars* • Jack Trigg in *The Legal 500 US*, *Colorado Super Lawyers* • John Vaught in *Colorado Super Lawyers* • Julie Walker in *The Legal 500 US* • Malcolm Wheeler in *The Legal 500 US* • Michael Williams in *Best Lawyers*, *The Legal 500 US*, *Colorado Super Lawyers Rising Stars*

### RECOGNIZED IN 2010-2011 FOR APPELLATE PRACTICE

Matthew Johnson in *Colorado Super Lawyers Rising Stars* • Marsha Piccone in *Best Lawyers* • Jessica Simbalenko in *Colorado Super Lawyers Rising Stars* • Tamera Westerberg in *Colorado Super Lawyers Rising Stars* • Malcolm Wheeler in *Colorado Super Lawyers*

she was fired for complaining to the Department of Labor that the company was not paying employees across the country the full amount of commissions they had earned. The jury rejected the plaintiff's claims and concluded that she was properly fired for insubordination.

**The U.S. District Court for the District of Colorado dismissed claims** of alleged gender discrimination and retaliation filed against WTO's client, a technology service provider. WTO established that the plaintiff had engaged in fraudulent conduct, including manufacturing evidence and filing false affidavits to support her meritless claims. Following dismissal of the case, the Court entered an order directing both the plaintiff and her attorney to pay attorneys' fees to WTO's client as the prevailing party in the litigation.

*Chambers USA 2010 ranks  
Raymond Martin among the top five labor  
and employment lawyers in Colorado.*

**WTO is representing an international package delivery and shipping company** in the defense of several cases challenging the carrier's classification of its drivers as independent contractors. Following several years of litigation in a multidistrict litigation proceeding in the state of Ohio, WTO was hired to handle all of the Colorado cases that were returned from the MDL to Colorado for trial, including one certified class action and another proceeding with 53 named plaintiffs.

### Class Actions

**The U.S. District Court for the Eastern District of California dismissed a complaint** against WTO's client, the world's largest appliance manufacturer, in a putative class action alleging false advertising of self-cleaning ovens.

**The U.S. District Court for the Northern District of California granted a motion to strike** the plaintiffs' class allegations against WTO's clients in a putative class action alleging consumer fraud and breach of warranty in the sale of clothes washers. The ruling reduced the size of the proposed consumer class by more than 90% and substantially narrowed the issues to be litigated in the case.

**The U.S. District Court for the Eastern District of New York dismissed a complaint** against WTO's clients in a putative class action alleging that the manufacturer and retailer of a gas oven concealed a dangerous design defect.

**The Colorado District Court, Denver County, dismissed all claims** against WTO's client, a medical industry company, in a high-profile class action involving infections contracted at a local medical facility.

**A Colorado state court dismissed all class claims**, including claims for consumer protection act violations, against WTO's client, a nursing home administrator.

**WTO represents a health care company in the U.S. District Court** for the District of Colorado in ongoing class action litigation involving allegations of conspiracy to dictate and control health services.

### Appellate

**The U.S. Supreme Court denied a petition to hear a case** in which a California appeals court affirmed a finding that state law claims against WTO's client, a medical device manufacturer, and others responsible for an allegedly defective product were preempted by the Medical Device Amendments of 1976.

**WTO wrote an amicus curiae brief for the American College** of Obstetricians and Gynecologists in the *Ford v. Eicher* case pending before the Colorado Supreme Court. The issues in the case dealt with the admissibility of expert testimony in shoulder-dystocia obstetrical cases.

*The ethical rules of some state bars require us to identify this Review as advertising material, and to remind you that the case descriptions included herein are not guarantees of similar results for all clients.*

“WTO’s lawyers are absolutely excellent—they don’t have the big firm mentality of over-billing a file, then recommending large settlements on the eve of trial. They are not afraid to walk into a courtroom and try a case.”

—A Client’s Comment to *The Legal 500 US 2010*



The list of **Colorado Super Lawyers®** selected in 2010 and published in March 2011 includes 17 WTO lawyers, seven of whom are on the top-50 list, one of whom is on the top-25 women lawyers list, and two of whom are on the top-10 list. *Sitting from left to right:* Michael O'Donnell (Top 10), Malcolm Wheeler (Top 10), Jack Trigg (Top 50); *Standing from left to right:* Habib Nasrullah, Edward Stewart, John Fitzpatrick, Kevin Kuhn (Top 50), Craig May, John Vaught (Top 50), Marsha Piccone, James Hooper, Carolyn Fairless (Top 50, Top 25 Women), Hugh Gottschalk (Top 50), Raymond Martin, Scott Barker (Top 50), Mark Cloutre, and Terence Ridley. **Colorado Super Lawyers Rising Stars** selected the following WTO lawyers for inclusion in 2011: Galen Bellamy, Miko Brown, Matthew Johnson, Megan Jones, LaMar Jost, Steven Kelso, Ramona Lampley, Andrew Myers, Joel Neckers, Kara Rosenthal, David Schaller, Jessica Simbalenko, Andrew Unthank, and Michael Williams.

## RECOGNITIONS

*Benchmark Litigation 2011* named WTO among its top-five recommended Colorado litigation firms. It also includes **Scott Barker**, **John Fitzpatrick**, **Hugh Gottschalk**, **James Hooper**, **Michael O'Donnell**, and **Malcolm Wheeler** on its list of the top Colorado litigators.

*Law Week Colorado's 2010* Barrister's Best rankings survey named **Hugh Gottschalk** "best intellectual property lawyer," **Michael O'Donnell** "best trial lawyer," and **Jack Trigg** "best overall litigator."

*Law Week Colorado* selected **Carolyn Fairless** as one of nine "Top Women Lawyers" in Colorado for 2010.

*Law Week Colorado's 2010* list of "Up-and-Coming Lawyers" includes **Ramona Lampley**. Other associates named as finalists include **Matthew Johnson**, **Jessica Simbalenko**, **John Streebman**, and **Andrew Unthank**.

**Malcolm Wheeler** is one of 318 lawyers nationally and eight in Denver recommended by corporate counsel for BTI Consulting's list of 2011 Client Service All-Stars.

## PUBLIC SERVICE



The *Denver Business Journal* recognized WTO with first place in the medium-sized business category for its Partners in Philanthropy Award. Scan this QR code using an app on your smartphone to read the full story. For each scan we receive, we will donate \$10 to the Denver Bar Association's 2011 drive for Food Bank of the Rockies.

The Gathering Place, a day shelter for women experiencing homelessness and poverty, selected WTO as one of its 25 Heroes to be honored at TGP's 25th anniversary gala.

**Mark Cloutre** received the 2010 Richard Marden Davis Award presented each year by the law firm of Davis Graham & Stubbs and the Denver Bar Association to one Denver lawyer under the age of 40 who combines excellence as a lawyer with creative civic, cultural, educational, and charitable leadership.

**Scott Barker** received the 2010 Carle Whitehead Memorial Award from the American Civil Liberties Union for his work on behalf of Guantanamo Bay detainees.

On behalf of the Colorado Civil Justice League, **Andrew Unthank** and **Evan Stephenson** testified before the Colorado Legislature against proposed bills which, if passed, could be detrimental to businesses.

**Besides contributing to the public good through pro bono legal work, many WTO lawyers serve on boards of directors of nonprofit organizations. Here is a representative list of these lawyers and the organizations they serve:**

**Michael Alper** Advisory Board Member, Colorado DLC • **Sean Baker** Board Member, Tennyson Center for Children • **Scott Barker** Vestry Member, St. John's Episcopal Cathedral • **Mark Cloutre** Chair, Denver Kids, Inc.; Board Member, The Wildlife Experience; Board Member, Faculty of Federal Advocates • **Nancy Cohen** Chair, Denver Bar Association Mentoring Committee • **Michael Davis** Board Member, Alliance for Choice in Education; Founding Board Member, Achieve Colorado; Legal Advisory Board Member, Colorado Civil Justice League • **Dia Draper** Board Member, Kipp Colorado Schools • **Carolyn Fairless** President, Foothills Animal Foundation • **Hugh Gottschalk** Board Member, American Civil Liberties Union of Colorado • **Kevin Kuhn** Admissions Committee Member, University of Colorado School of Medicine • **Ramona Lampley** Chair-Elect, The Gathering Place • **Craig May** Treasurer, Internet Safety Foundation; Graduate, 2010 Leadership Denver Program • **Erik Nadolink** Founding Board Member and Secretary, Chattering Children • **Habib Nasrullah** Founder and Advisor, Internet Safety Foundation • **Joel Neckers** Committee Member, Colorado Coalition for the Homeless • **Michael O'Donnell** Board Member, Catholic Charities; Board Member, Denver Police Foundation; Board Member, Colorado Judicial Institute; Finance Council Member, Archdiocese of Colorado; Founding Board Member, Walking for Kids • **Terence Ridley** Committee Member, Federation of Defense and Corporate Counsel • **David Schaller** Committee Member, Colorado Judicial Institute Young Professionals Division; Advisor, Denver Urban Debate League • **John Streebman** Secretary, Denver Active 20-30 Children's Foundation • **Marsha Piccone** Chair, Colorado Supreme Court Committee on Pattern Civil Jury Instructions • **Jack Trigg** Board Member and Former Chair, Colorado Prevention Center • **Andrew Unthank** Founding Board Member, Good Food Now • **Julie Walker** Board Member, Colorado Lawyers for the Arts • **Tamera Westerberg** Board Member, Colorado Children's Campaign Circle of Friends • **Gwen Young** Vice Chair, American Civil Liberties Union of Colorado

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