Wheeler Trigg O'Donnell

# 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.

2020

The U.S. Tenth Circuit Court of Appeals affirmed WTO's trial win for Owners Insurance Company against a condominium association that filed an inflated insurance claim and sought more than $5 million in total damages. WTO ultimately recovered the entirety of the insurance benefits Owners had paid the insured before learning the claim was inflated.

Less than three weeks after oral argument, the Tenth Circuit issued a 30-page order affirming the trial court's judgment in full and adopting WTO's arguments that a condominium association (Sunflower) waived many of its arguments on appeal. In addition, at oral argument, one of the judges recognized WTO's trial achievement, stating, "Whoever litigated this case on behalf of the carrier, we had to compliment them."

Sunflower initially filed suit in 2016 after a hailstorm allegedly damaged 30 buildings in a condominium complex. Following the storm, Sunflower submitted a claim to repair the roofs of its buildings and other damaged property. The claim

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demanded approximately two times the reasonable cost estimated by the independent adjuster to replace the roofs. Although Owners ultimately paid over $600,000 to the policyholder, Sunflower nevertheless sued Owners and accused it of bad faith. Sunflower sought to recover triple benefits and attorney fees.

During discovery, WTO learned that Sunflower and its agents had significantly inflated the cost of over 30 categories of items included in the claim and had affirmatively misrepresented the date Sunflower discovered the hail damage to avoid a denial of the claim for late reporting. Sunflower asserted counterclaims against the insured.

At trial, the jury unanimously found for Owners, and returned a verdict requiring Sunflower to repay to Owners all of the money it had received, plus pre- and post-judgment interest. On appeal, WTO successfully presented multiple bases for rejecting each of Sunflower's claims and demonstrated that affirmance was the correct result at oral argument.

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