Wheeler Trigg O'Donnell

Carolyn J. Fairless

Partner

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Chambers TOP RANKED USA 2026

Wheeler Trigg O'Donnell LLP

WHEELER TRIGG O'DONNELL LLP 2027 RECOGNIZED BY Best Lawyers

AMERICAN COLLEGE OF TRIAL LAWYERS

#1 Lawyer in Colorado - Super Lawyers

Carolyn Fairless represents sophisticated clients in complex commercial litigation and professional liability defense. Carolyn is a Regent in the American College of Trial Lawyers, and

has taken more than 25 trials or arbitration hearings to verdict or judgment. She is one of eight lawyers in the country with a Chambers USA Band 1 ranking in the Nationwide – Law Firm Defense category, and Chambers ranks her in Band 1 for General Commercial Litigation in Colorado. Carolyn's peers voted her the No. 1 lawyer in Colorado as part of the 2025 and 2026 Super Lawyers rankings.

Carolyn represents clients in matters including breach of contract, business torts, intellectual property, personal injury, insurance coverage and bad faith, and professional liability. She has been called "a lawyer's lawyer" and has successfully defended some of the nation's leading law firms and lawyers in high-stakes legal malpractice matters throughout the country. Carolyn also defends insurance, finance, and real estate firms and professionals.

Chambers USA has said, "She is noted by a source as 'talented and experienced beyond her years,' adding: 'She misses no details and seems almost always to be available to address concerns. She is the ultimate client pleaser.'" Chambers also highlighted that Carolyn's clients describe her as "the best outside lawyer" they work with, a "phenomenal attorney who is truly one of the best . . . wicked smart, practical and calm under pressure," "best-in-class as a litigator and counselor for law firms," and an "outstanding" and "tremendous trial lawyer."

Best Lawyers recognized Carolyn as the Denver Lawyer of the Year for Professional Malpractice Law - Defendants in 2017, 2020, 2021, 2025, and 2026 and Legal Malpractice Law - Defense in 2023. In 2025, Benchmark Litigation selected her as one of the Top 250 Women in Litigation. Carolyn is also Martindale-Hubbell AV peer-review rated.

> "She misses no details and seems almost always to be available to address concerns. She is the ultimate client pleaser."
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> – Client comment to Chambers USA

Credentials

Education

University of Colorado Law School, J.D., 1998, Research Assistant to Professor Dale A. Oesterle

Tulane University, B.S., *cum laude,* 1992; Computer Science

RECOGNITION

Chambers USA
Law Firm Defense - Nationwide, 2024-2026
Commercial Litigation - Colorado, 2013-2026
The Best Lawyers in America
Professional Malpractice Defense Lawyer of the Year - Denver, 2017, 2020-2021, 2025-2026
Legal Malpractice Law - Defense Lawyer of the Year - Denver, 2023
Bet-the-Company Litigation, 2027
Commercial Litigation, 2013-2027
Legal Malpractice Law - Defendants, 2012-2027
Professional Malpractice Law - Defendants, 2012-2027
Litigation - Intellectual Property, 2017-2027

Benchmark Litigation
Litigation Star, 2020-2026
Top 250 Women in Litigation, 2014-2018, 2025-2027
Commercial Litigation - Colorado, 2014-2018
Future Star - Colorado, 2013

Colorado Super Lawyers
Ranked #1 in Colorado, 2026
Top 10, 2022-2026
Top 100, 2012-2021
Top 50 Women, 2012-2026
Super Lawyers, Professional Liability: Defense, 2009-2026
Rising Stars, Professional Liability: Defense, 2009

Colorado Law Distinguished Alumni in Private Practice Award, 2021

Martindale-Hubbell AV®Peer Review Rated

LEGAL MEMBERSHIPS

American College of Trial Lawyers, Fellow
Regent, 2024-present
Legal Ethics and Professionalism Committee, Chair, 2022-2024

American Board of Trial Advocates
Member

Litigation Counsel of America, The Trial
Lawyer Honorary Society Fellow

American Bar Association
Standing Committee on Lawyers' Professional Liability, 2020-2023

Fellow, Litigation Counsel of America, The Trial Lawyer Honorary Society

Colorado Supreme Court Judicial Nominating Commission, 2017-2022

BAR AND COURT ADMISSIONS

Colorado
Montana
U.S. Supreme Court
U.S. Court of Appeals, 1st Circuit
U.S. Court of Appeals, 6th Circuit
U.S. Court of Appeals, 9th Circuit
U.S. Court of Appeals, 10th Circuit
U.S. District Court, D. Colorado
U.S. District Court, D. Montana

COMMUNITY ACTIVITY

Animal Assistance Foundation, Board of Directors, 2016-2018

Foothills Animal Foundation, President, 2009-2012

ARTICLES AND PRESENTATIONS

Co-Author, "Behavioral Ethics and the Practice of Law, ALAS Loss Prevention Journal," Vol. XXX, No. 2.

Co-Author, "Legal Malpractice," Chapter 24, *Colorado Civil Claims: Elements, Defenses, and Sample Pleadings, First Edition, Continuing Legal Education in Colorado, Inc*.

Panelist, "Professionalism and Civility in the U.S. District Court," Faculty of Federal Advocates Meeting.

Panelist, "Just When You Thought You Could Get a Good Night's Sleep: The New Issues Disrupting General Counsel's Sleep Patterns," 50th ABA National Conference on Professional Responsibility.

Panelist, “Houston, We May Have an Issue…: Navigating the (Possible) Mistake,” PilotLegis Member Conference.

Panelist, ” Lessons in Legal Ethics and Risk Management for Law Firms and Insurance Professionals,” Professional Liability Defense Federation Annual Meeting.

Moderator, “Nuclear Verdicts for Lawyers: We are not Immune,” American Bar Association National Legal Malpractice Conference.

Presenter, “Winning at Trial; Closing Argument,” Colorado Bar Association CLE Seminar.

Panelist, “Hazards in Co-Counsel, Local Counsel and Referral Relationships,” American Bar Association National Legal Malpractice Conference.

Mock trial presenter, Attorneys’ Liability Assurance Society Annual General Meeting.

Moderator, “The Changing Litigation Landscape: Trials and Hearings in 2022 and Beyond,” American Bar Association National Legal Malpractice Conference.

Moderator, “Pointing the Finger at the Plaintiff,” American Bar Association National Legal Malpractice Conference.

Presenter, “Ethical or Unethical? Potential Pitfalls in Trial Practice,” Colorado Defense Lawyers Association Summer Conference.

Presenter, “Foundations: How to Prepare for a Deposition,” Colorado Bar Association CLE Estate Planning Retreat.

Presenter, “Unexpected Peril: The Evolution of Third-Party Claims Against Lawyers,” Association of Professional Responsibility Lawyers Mid-Year Meeting.

Presenter, “Ethical Pitfalls in Trial Practice,” Colorado Bar Association CLE Seminar.

Presenter, “Best Practices and Ethics in the Profession,” Colorado Bar Association CLE Seminar.

Presenter, “Conducting Voir Dire,” Practicing Law Institute.

Presenter, “Ripped From the Headlines: Real World Cautionary Tales in Attorney Ethics,” Colorado Law Homecoming & Reunion Weekend.

Presenter, “We Told You So - Loss Prevention Success Stories,” Attorneys’ Liability Assurance Society Annual General Meeting.

Presenter, "A Primer on Lawyers' Professional Liability Insurance," Colorado Bar Association CLE.

Practices

Appellate
Catastrophic Injury
Commercial Litigation
Intellectual Property
Legal Professional Liability

Cases

LEGAL PROFESSIONAL LIABILITY

Won a permanent injunction for an AmLaw 200 firm following a bench trial.

Won an appeal in the Tenth Circuit for an AmLaw 100 firm reversing the denial of a motion to dismiss an adversary proceeding on a statutory construction issue of first impression.

Won a Kentucky appeal for a law firm accused of aiding and abetting a client's breach of fiduciary duty in a $500 million estate dispute

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Won a defense jury verdict for a lawyer and law firm facing outrageous conduct and malicious prosecution claims.

Won a 15-day arbitration for a law firm in a malpractice case arising from a construction-defect lawsuit.

Argued and won a motion to dismiss $150 million malpractice claims brought in Nevada against an AmLaw 200 firm. The allegations involved the accuracy of an underlying tax opinion.

Won an arbitration award for a lawyer and law firm against legal malpractice claims related to a 2014 real estate deal. Claimants asserted damages of $3 million plus interest. The arbitrator ruled for our client and found that no legal malpractice had occurred.

Won a complete defense verdict for a lawyer and law firm accused of legal malpractice in the handling of a sale of interests in the plaintiff's company.

Won an arbitration for a law firm client that sued its former client for unpaid fees and was countersued for malpractice. The arbitrator rejected the malpractice claims and awarded our client its unpaid fees plus interest, as well as its legal fees and costs incurred in the arbitration.

Won a complete defense verdict in a professional liability claim against a law firm and lawyer. The plaintiff alleged that our client was negligent, yet the jury found that not only was our client not negligent, but that the alleged negligence didn't cause the claimed damages.

Won a Tenth Circuit victory for a law firm client in protracted litigation arising out of a divorce and bankruptcy characterized as "the most complex [the divorce court] has seen in 25 years.

Won summary judgment for a large regional law firm in a legal malpractice case involving claims that the firm's lawyers failed to properly advise the plaintiff regarding environmental issues in an underlying real estate transaction.

Won a unanimous opinion from the Colorado Supreme Court that upholds Colorado's strict privity rule in determining whether non-client beneficiaries may sue an estate lawyer for legal malpractice. In its opinion, the Court adopted the most stringent test, as we had advocated, and affirmed that the plaintiffs lacked standing to sue our clients.

Won a complete defense jury verdict in a $12 million legal malpractice case. The jury found in favor of our client on all claims and also awarded unpaid legal fees owed by plaintiffs.

Won a complete defense jury verdict in federal court for a large international law firm accused of malpractice. The plaintiff hired our client to handle a complex patent infringement matter, then sued the firm for negligence and breach of fiduciary duty.

Won back-to-back Colorado Court of Appeals victories in legal malpractice cases involving claims of failure to disclose, negligent misrepresentation, fraudulent concealment, and breach of fiduciary duty.

Defeated class certification in federal court in Oklahoma in a case involving thousands of claimants against a law firm that represents clients before the Social Security Administration. Following the denial of certification, the court granted summary judgment in favor of our client on all remaining individual claims in the case.

Won a bench verdict in state court in a legal malpractice matter. After the law firm brought a collection action against a former client, the former client countered with a multimillion-dollar damages demand, claiming breach of fiduciary duty. Following a one-week trial, the judge dismissed the former client's counterclaim and awarded our client the full amount of fees owed plus interest.

Won an arbitration award in favor of a law firm client. The arbitrator denied all legal malpractice claims against our client and awarded it unpaid fees, plus interest, attorneys' fees, and costs.

COMMERCIAL LITIGATION

Won a defense victory on appeal in a multimillion dollar insurance and construction defect dispute, overturning an adverse jury verdict, winning judgment on the most significant portion of the claim, and receiving a complete retrial on all other issues.

Won a second unanimous jury verdict for a leading auto-parts manufacturer in an 11-year-old breach of contract dispute in federal court in Kentucky. Due to the results of a prior appeal, our client held the burden of proof on key issues in the trial.

Won a trial for two estate creditors accused of colluding with an estate representative to defraud the primary beneficiary. The presiding judge entered judgment for our clients, concluding that the plaintiff had failed to prove virtually every necessary element of her claims.

Won a complete defense jury verdict for a major auto parts manufacturer in federal court in Kentucky. We were called in just six months before trial in a protracted contract dispute that had already included two trips to the Sixth Circuit.

Won a defense verdict for Pepsi Bottling Group in a six-day jury trial. The plaintiff claimed a traumatic brain injury as a result of being struck with falling merchandise from a retail display. Our client was one of two defendants in the litigation, and the jury assigned no fault to our client.

Won a bench trial successfully defending against a real estate company's claims that our client's interference prevented the sale of a shopping center. We were retained in the last months before trial, and despite rulings made before our engagement that the basis for interfering lacked merit as a matter of law, following trial, the court ruled for our client on all issues of liability, causation, and damages.

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