

Scott S. Barker

Senior Counsel

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Scott Barker, a military veteran with service in Southeast Asia and a Fellow of the American College of Trial Lawyers since 2001, is a seasoned courtroom advocate with over forty years of experience trying complex high-stakes cases in courts throughout the United States.

Now, as Senior Counsel, Scott's passion is serving clients by helping the firm's lawyers to hone their trial presentations and appellate arguments. Given the depth and breadth of his trial experience, Scott is also an effective mediator and arbitrator. Finally, he is an avid student of the Constitution. Since 2018, Scott has authored three published books and several articles and op-eds about our founding document and its impact on current events.

Credentials

Education

Harvard Law School, J.D., *cum laude*, 1981

Oxford University, M.Phil., Rhodes Scholar, 1973

United States Air Force Academy, B.S., 1970

GOVERNMENT EXPERIENCE

United States Air Force

Active duty, including assignments in Southeast Asia and the Pentagon, 1970-1978

Honorably discharged as Captain, 1978

LEGAL MEMBERSHIPS

American College of Trial Lawyers

Fellow

Litigation Counsel of America

Member

American Board of Trial Advocates

Member

American Bar Association

Arbitrator, Denver ADR Panel, CPR Panels of
Distinguished Neutrals

Colorado Bar Association

Denver Bar Association

RECOGNITIONS

The Best Lawyers in America

Denver Environmental Litigation Lawyer of the Year, 2020

Denver Mass Tort/Class Action Litigation Lawyer of the Year, 2018

Denver Bet-the-Company Litigation Lawyer of the Year, 2013

Bet-the-Company Litigation, 2006-2027

Commercial Litigation, 2006-2027

Litigation - Environmental, 2016-2027

Mass Tort Litigation / Class Actions - Defendants, 2006-2027

Chambers USA

Commercial Litigation - Colorado, 2005-2019

Colorado Super Lawyers

Business Litigation, 2006-2025

Top 10, 2008, 2010

Top 50, 2006-2011

Top 100, 2012-2018

Denver Business Journal

Who's Who in Energy Law, 2012-2014

Best Business Litigator in Denver, 2003

Benchmark Litigation

Commercial Litigation - Colorado, 2011-2018

Martindale-Hubbell AV®Peer Review Rated*

BAR AND COURT ADMISSIONS

Colorado

U.S. Court of Appeals, 10th Circuit

U.S. District Court, D. Colorado

ARTICLES AND PRESENTATIONS

Author, "The Reality of Policing the Supreme Court," The Messenger Opinion.

Author, "Reflections on Trial Lawyer Leadership," Colorado Lawyer.

"America Must Accept the Limitations of Its Military Power," The Hill.

Presenter, "Reforming The War Powers Relationship Between Congress and the President in the Post-Trump Era," Denver University Law Forum.

"History Cautions Against Rash Decisions in Iranian Conflict," Detroit Free Press.

"Trump is Getting His Constitutional Rights in House Impeachment Inquiry," The Hill.

"Opinion: Politics Aside, Legal Precedents don't Favor Trump in an Impeachment Inquiry," Los Angeles Times.

"Political Arithmetic and Impeachment," Law Week Colorado.

"An Overview of Presidential Impeachment," The Colorado Lawyer.

"The Kings of War - How Our Modern Presidents Hijacked Congress's War-Making Powers and What To Do About It."

"The Impeachment Quagmire," History Publishing Co.

"Impeachment," A Political Sword, History Publishing Co.

"War Powers and the Constitution," Academy of Life Long Learning.

"Presidential Impeachment," Academy of Life Long Learning.

Presenter, "Practical Tips for Preparing and Trying an Oil and Gas Case," The Institute for Energy Law's 63rd Annual Oil & Gas Law Conference.

"The Constitution and Conflict with Iran," Boulder Daily Camera.

COMMUNITY ACTIVITY

Panel Coach, Constitutional Scholars Program, Denver East High School

Past President, Board of Trustees, Denver Christian Schools

Lay Assessor, Ecclesiastical Proceeding for the Episcopal Diocese of Colorado

Practices

Antitrust

Catastrophic Injury

Class Actions

Commercial Litigation

Mass Torts

Pro Bono

Product Liability

Cases

Won a pro bono appeal that included an award of military disability benefits for a 79-year-old veteran whose claim had previously been denied.

Served as panel chair in a complex, multimillion-dollar dispute involving gas properties in Wyoming.

Successfully opposed plaintiffs' certiorari petition to the Colorado Supreme Court, leaving in place a Court of Appeals ruling in favor of BP and eliminating a \$750,000,000 exposure threat in alleged moratory interest.

Served as lead class action defense counsel for BP America Production Company in six class actions, including two jury trials to verdict against certified classes of royalty claimants.

From 2005 to 2011, headed a team of hundreds of lawyers providing pro bono representation to five Algerian nationals detained in Guantanamo Bay in their habeas corpus proceedings in the U.S. District Court for the District of Columbia.

Defeated class certification for Nash Finch (now SpartanNash), a Fortune 500 food distribution company, in claims involving common law fraud, civil theft, and violations of the Colorado Consumer Protection Act stemming from complaints about a specific pricing program in various grocery stores. We then obtained summary judgment against the 55 named plaintiffs.

Served as lead counsel to Amoco Production Co. in a major groundwater contamination case in southwestern Colorado and northwestern New Mexico. Plaintiffs alleged Amoco's gas production operations had contaminated domestic water supplies across an area the size of Rhode Island. The putative class action, if certified, would have produced exposure in the billions of dollars. Scott's team defeated class certification and successfully tried the named plaintiffs' cases to a jury.

Obtained a defense verdict for ARCO/Thunder Basin Coal Company in an antitrust case involving real estate development incident to a client's coal mining operations in Campbell County, Wyoming.

Served as lead trial counsel to Asarco, Inc., in a six-week class action jury trial in Denver District Court involving allegations of heavy metals contamination in the area surrounding Asarco's cadmium refinery.

Represented Aspen Skiing Company as lead trial counsel for over a decade, handling more than 30 cases, including 10 defense verdicts.

Represented AT&T as lead counsel in a complex telecommunications dispute in federal court in Colorado.

Served as lead counsel to Computer Associates in a complex business tort jury trial in federal court in Utah.

Headed up Exxon's Underground Storage Tank litigation team, trying one case successfully to verdict and supervising the litigation of approximately 12 other cases.

Served as lead counsel to International Paper in a family of insurance coverage cases, including bench and jury trials in state court in San Francisco.

Represented Kerr-McGee/Anadarko as lead trial counsel in a federal False Claims Act jury trial involving oil royalties on offshore federal leases and in a federal jury trial involving allegations of misappropriation of seismic data.

Obtained summary judgment for Lockheed Martin with regard to the majority of potentially \$2 billion in exposure in a major federal False Claims Act case in Idaho. Allegations included false claims associated with a contract for management of the U.S. Department of Energy facility in Idaho Falls, ID. Following summary judgment, the remainder of the case settled favorably.

Served as lead counsel to Valero in a series of four arbitrations involving cost-sharing disputes over environmental cleanup at a gasoline refinery in Denver, CO.
