Wheeler Trigg O'Donnell

Peter W. Herzog III

Partner

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Chambers TOP RANKED USA 2026
Wheeler Trigg O'Donnell LLP

BENCHMARK LITIGATION

Peter Herzog focuses on consumer class action defense and complex commercial litigation. He has defended certified class actions at trial and has won dismissal or defeated certification more than 100 times. Peter is a two-time BTI Consulting Client Service All-Star, and Chambers USA has ranked him in Band 3 for Nationwide Consumer Class Action Defense. Peter has tried four certified class actions, three to verdict.

"The absolute best at delivering client service."

– BTI Consulting

Credentials

Education

Washington University School of Law, J.D., 1985

Washington University at St. Louis, B.A., 1982

RECOGNITION

Chambers USA
Product Liability & Mass Torts - Nationwide, 2023-2026
Consumer Class Action Defense - Nationwide, 2022

The Best Lawyers in America
Commercial Litigation, 2018-2027
Mass Tort Litigation / Class Actions - Defendants, 2018-2027

Martindale-Hubbell AV® Peer Review Rated

BAR AND ADMISSIONS

Not admitted in Colorado
Massachusetts
Missouri
U.S. Court of Appeals, 1st Circuit
U.S. Court of Appeals, 7th Circuit
U.S. Court of Appeals, 8th Circuit
U.S. Court of Appeals, 9th Circuit
U.S. District Court, D. Kansas
U.S. District Court, D. Massachusetts
U.S. District Court, E.D. Missouri
U.S. District Court, W.D. Michigan

LEGAL MEMBERSHIPS

American Bar Association

Missouri Bar Association

Massachusetts Bar Association

Defense Research Institute

ARTICLES AND PRESENTATIONS

"Thinking of Making a Gift to Your Alma Mater? Think Twice," The American Spectator.

Co-Author, "Trial by Webcam: Tips From a Firsthand Experience," Law360.

Practices

Antitrust
Appellate
Class Actions
Commercial Litigation

Cases

CLASS ACTIONS

Secured a victory in the Fifth Circuit when it vacated class certification in a class action alleging State Farm's use of a third-party valuation tool systematically undervalues the actual cash value of totaled vehicles.

Secured a victory in the Sixth Circuit when it reversed class certification in a class action alleging State Farm's use of a third-party valuation tool systematically undervalues the actual cash value of totaled vehicles.

Won summary judgment in a class action alleging State Farm's use of a third-party valuation tool undervalues the actual cash value of total loss vehicles by using a typical negotiation adjustment.

Won Eighth Circuit affirmance for a major insurance company to uphold our trial court victory in a motion to dismiss. Following oral arguments, the panel ruled that our client complied with state laws regarding the settlement of total loss claims.

Defeated a third class certification attempt brought by plaintiffs in four states against Volvo in an overly broad putative class action alleging defects in eight Volvo model sunroofs. The ruling is a significant setback to plaintiffs in the 11-year-old case that the court described as "tortured."

Successfully resolved a putative class action against Yahoo! involving alleged violations of the Illinois Eavesdropping Statute.

Obtained dismissal of two putative class action lawsuits for Yahoo! in Ohio state court alleging that daily fantasy sports contests on the website amounted to illegal gambling.

Won a precedential Third Circuit opinion for Volvo that vacated a district court's order to certify classes in six states to pursue claims that the sunroof drains in all Volvo models manufactured from 2003 to the present are defective.

Won dismissal of a nationwide class action alleging defects in two Scion vehicles.

Defeated motions to certify nationwide, statewide, and issues classes in multidistrict litigation involving the chemical bisphenol A (BPA).

Defended Ford Motor Co. in a four-month certified class action trial involving $2 billion in consumer fraud claims. On the day set for closing arguments, the plaintiffs agreed to a no-cash, coupon-based settlement for the California class and classes in three other states with pending parallel actions.

Successfully defended before the Seventh Circuit a Rule 12 dismissal of all claims relating to a proposed nationwide class action arising out of the 2005 United States Grand Prix in Indianapolis.

Won the seminal New Jersey decision on ascertainable loss in consumer fraud actions and affirmed summary judgment in favor of Mercedes-Benz.

Won summary judgment in favor of Mercedes-Benz and won appeal of summary judgment based on the plaintiff's inability to prove ascertainable loss.

Won a complete defense jury verdict for Ford in a six-week, certified class action trial in Illinois.

Won a Rule 12 dismissal of a proposed nationwide class action against Michelin and won appeal of the dismissal in the Fourth Circuit Court of Appeals.

Won summary judgment against named plaintiffs in a proposed nationwide class action against Mercedes-Benz.

Obtained decertification of a certified nationwide class action against Ford.

COMMERCIAL LITIGATION

Won a $1.25 billion exit fee dispute for an electric distributor against its generation and transmission provider.

Facilitated a rural electric cooperative's withdrawal from membership in a wholesale cooperative. Our client achieved settlement for hundreds of millions of dollars below the wholesaler's demand and can now acquire substantially cheaper and renewable green energy sources for its members.

Won Second Circuit affirmance for a Michelin subsidiary upholding summary judgment from the Southern District of New York. The case involved fraud perpetrated by a former employee and a third party.

Won Fifth Circuit affirmance of a trial court's summary judgment for Michelin in a case alleging that Michelin and General Motors conspired to prevent the plaintiff from obtaining Michelin racing tires for use in the American Le Mans racing series. The original complaint included antitrust claims, which were dismissed, and unfair competition claims that survived until discovery, when no evidence supporting such claims was produced and the trial court granted summary judgment.

Won summary judgment for Michelin in a case alleging that Michelin and General Motors conspired to exclude the plaintiff from participation in The American Le Mans racing series.

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