Wheeler Trigg O'Donnell

Brian S. Osterman

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WHEELER TRIGG O'DONNELL LLP 2027 RECOGNIZED BY Best Lawyers

RECOGNIZED BY 2026 Super Lawyers Wheeler Trigg O'Donnell LLP

Brian Osterman leads clients through high-exposure and complex professional liability and commercial matters. He has experience winning as a first chair trial lawyer, and he has also won early in litigation for clients facing high-exposure claims in the most challenging of jurisdictions. Brian regularly takes on difficult cases–and achieves favorable outcomes–when prior strategies have not produced desirable results.

In addition to his professional liability practice, Brian represents healthcare corporations, facilities, long-term care facilities, and assisted living facilities in personal injury and commercial litigation matters.

Brian brings particular knowledge to high-stakes litigation in the state of New Mexico. He understands the complexities of the state's legal landscape, and is skilled at representing clients there across a range of healthcare and professional negligence cases.

Prior to joining WTO, Brian spent five years as an associate at a New York litigation firm.

Credentials

Education

Notre Dame Law School, J.D., *cum laude*, 2011

Boston College, B.A., *cum laude*, 2008; Political Science

RECOGNITION

The Best Lawyers in America
Ones to Watch - Personal Injury Litigation, Defendants, 2022-2025
Ones to Watch - Commercial Litigation, 2023-2025

Colorado Super Lawyers
Rising Stars, Personal Injury - Medical Malpractice Defense, 2022-2026

BAR AND ADMISSIONS

Colorado
New Mexico
New York
U.S. Court of Appeals, 10th Circuit
U.S. District Court, D. Colorado
U.S. District Court, D. New Mexico
U.S. District Court, E.D. New York
U.S. District Court, S.D. New York
U.S. District Court, W.D. New York

LEGAL MEMBERSHIPS & ACTIVITIES

Colorado Bar Association

Denver Bar Association

New Mexico Bar Association

New York State Bar Association

New York State Attorney General's Triple "C" Award

Colorado Defense Lawyers Association

Colorado Notre Dame Lawyers' Committee

Faculty of Federal Advocates

University of Denver Sturm College of Law - Mentor

University of Colorado School of Medicine - Annual Guest Lecturer

COMMUNITY ACTIVITY

Denver Health Foundation
Next Generation Giving, Board Member

Notre Dame Club of Denver

OTHER EXPERIENCE

Summer Clerk, United States Attorney's Office, Western District of New York

Practices

Appellate
Catastrophic Injury
Commercial Litigation
Healthcare Litigation
Pro Bono

Cases

MEDICAL MALPRACTICE & PROFESSIONAL LIABILITY

Representing CNA as regional trial counsel for Healthcare and Aging Services clients.

Won a jury defense verdict for a tele-neurologist in a $33 million medical malpractice trial involving a stroke patient.

Successfully defended multiple physicians in a high-exposure wrongful death case against a nationally recognized plaintiffs' attorney. Our strong expert witness development and strategic motion practice allowed us to attain favorable resolution for our clients at a fraction of the plaintiff's multimillion-dollar demand.

Handle board matters for physician clients before the Department of Regulatory Agencies and Colorado Medical Board.

Successfully defended a healthcare client facing multiple claims, including treble damages. After our successful motion to dismiss resulted in the dismissal of all but one claim, we were able to resolve the sole remaining claim for nuisance value.

Obtained early dismissal in a multimillion-dollar case for a New Mexico healthcare client. Our aggressive early motion practice and creative expert discovery at the earliest stages of litigation were key to achieving this successful outcome.

Obtained a voluntary walkaway dismissal in a New Mexico wrongful death case. Early dispositive motion practice forced the plaintiff to withdraw claims against our client.

Representing a national hospital network in medical malpractice and professional negligence cases across the country.

Won walkaway dismissal for a physician in an $85 million birth injury case.

Won dismissal on summary judgment–including an award of attorneys' fees–in a case involving medical malpractice and breach of contract claims.

Won favorable settlement for a New Mexico hospital in a multimillion dollar case involving medical malpractice and unfair trade practices claims.

Won favorable settlement for a healthcare client in a $64 million birth injury case in Maryland.

Won dismissal of all claims of vicarious liability and apparent agency for a hospital in multimillion dollar case in New Mexico.

Drafted a winning amicus brief for the Colorado Defense Lawyers Association in an alleged medical malpractice case against a chiropractor that establishes, for the first time, that a third party's involvement in a conversation between an attorney and a client waives the attorney-client privilege, unless the third party's presence is reasonably necessary to facilitate the communication.

Obtained voluntary dismissal for a defendant physician in a multimillion dollar medical malpractice action.

Following our motion for summary judgment, obtained a nuisance value settlement of professional liability claims of $5 million against a New Mexico hospital.

Obtained early voluntary dismissal of hospital in a $25 million medical malpractice action.

Obtained dismissal of claims against a private hospital, establishing an exception to the traditional rule of vicarious liability in New York State.

Won a motion to dismiss for a hospital client in New York in a matter of first impression involving Emergency Medical Treatment and Labor Act (EMTALA) claims in the Second Circuit. The Court affirmatively ruled that the hospital's obligations under EMTALA ceased upon admitting the plaintiff.

COMMERCIAL LITIGATION

Represent the Colorado Rockies organization in MLB arbitration proceedings.

Successfully defended a property management corporation and related entities in a high-exposure carbon monoxide case.

Successfully defended a corporate client facing a multitude of claims including breach of contract, unjust enrichment, civil theft, piercing the corporate veil, and the claims under the Colorado Consumer Protection Act. We utilized early motion practice to eliminate all but one of the plaintiff's claims, which the plaintiff then dismissed for nuisance value.

Following a successful trial, achieved favorable resolution for a client in a capacity to contract case.

Successfully represented a party in a $2 billion dispute surrounding the future ownership of the Broncos NFL franchise and family trust.

Successfully represented a corporate client in a multimillion-dollar complex commercial dispute involving breach of contract, non-compete, and trade secret claims. Resolved all claims in the client's favor and obtained an additional monetary award.

Represented a party and investment corporation in a multimillion-dollar breach of contract dispute involving claims surrounding contractual capacity.

Representing a corporate client in a case involving allegations of breach of contract, unfair trade practices, and general corporate malfeasance.

Represented multiple ski and snow sports recreation clients in personal injury matters.

Obtained multiple dismissals of Section 1983 claims, including one highly publicized case in which a New York City police officer alleged he had been involuntarily hospitalized in retaliation for whistleblower claims.

PRO BONO

Secured a historic $1.1 million settlement in a civil rights case for a pro bono client stabbed 43 times in prison.

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