



CHAMBERS USA

Colorado Commercial Litigators Make Mark on Chambers USA List

MATT SUOJA | LAW WEEK COLORADO

The Chambers USA Guide has been released for 2023 and many Colorado commercial litigators made their way on the list.

Law Week Colorado caught up with some of them to find out how things have been going.

Skip Netzorg, a member at Sherman & Howard L.L.C., recently transitioned his practice to alternative dispute resolution where he mediates and arbitrates commercial disputes. Netzorg also performs pro bono mediations for federal and state courts.

Netzorg explained one of the major impacts on his practice in the last year is the reverberating effect of COVID-19.

“As a result of delays caused by court closings during Covid, there has been a palpable increase of cases with imminent trial dates. I am seeing a surge in mediations for cases with ‘short fuses,’” Netzorg wrote. “The volume of arbitrations seems to have increased as well.”

Netzorg added as courts become more congested and expensive, more parties are turning to arbitration as an effective alternative, explaining it’s less expensive and faster.

James Sawtelle, a member at Sherman & Howard, has a practice focused on complex commercial litigation and arbitration with a strong background in handling intellectual property disputes like trademarks, copyrights and patents.

“Coming out of the pandemic, the demand for commercial dispute resolution has been very strong. We are seeing this across all areas, especially in the context of business acquisitions and dissolutions, termination of contractual relationships, licensing disputes, and IP issues involving

claims of trademark and copyright infringement,” Sawtelle wrote.

He noted 2023 has been a very busy year for his practice and it doesn’t look like it’s slowing down, adding the pandemic could be a reason why.

“Many of our business clients were largely focused on survival throughout much of 2020-21. During that time, pursuit of legal claims was a lower priority while they assessed the economic impact of the nationwide shutdown and tried to determine what they could expect moving forward,” Sawtelle wrote. “As the economy began to reopen in 2021-22, clients have been able to get back to business-as-usual, and they are now better positioned to take action on legal claims and issues.”

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— James Sawtelle, Sherman & Howard

Peter Koclanes, a member at Sherman & Howard, practice runs the gamut including handling business disputes in the areas of securities and class actions, business torts and corporate governance, intellectual property and non-competition, general commercial litigation, oil and gas natural resources, real estate, along with trusts and estates.

“The most noticeable change I have seen in my practice areas during 2022-2023 is a substantial rise in business

disputes,” Koclanes wrote. “Based upon the economic cycles I have witnessed during my 36 years of practice, I believe this results from a variety of factors such as rising interest rates, increased inflation, and a potential recession, among other things.”

Koclanes added in addition to the economic pressures that result in more business disputes, parties appear to be quicker to take action to handle them, adding they might not have the option to delay resolving disputes.

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— Chad Williams, Davis Graham & Stubbs LLP

“As an example, I have seen an increase in my clients asking us to conduct internal investigations as one way of evaluating, and many times resolving, potential disputes early on,” Koclanes wrote.

Chad Williams, a co-managing partner at Davis Graham & Stubbs LLP, works on complex civil disputes often involving securities issues and corporate governance. He added about half of his practice involves white-collar criminal defense.

“These practice areas have been busy during the last year for reasons that are hard to assess,” Williams explained. “A few sizable cases filed in Colorado have kept me and a considerable number of other lawyers with similar practices busy.”

Williams noted Colorado is becoming a bigger player when it comes to sophisticated cases.

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Mike Gallagher, a partner at DGS, handles many kinds of commercial litigation with a specialty in litigation with natural resource companies. He added he’s seen an increase in high-dollar commercial litigation cases filed in Denver, both in state and federal court, adding some of them would have been filed in other jurisdictions in past years.

“I hope and expect that the trend of more high-profile commercial cases being filed in Denver will continue,” Mike Gallagher wrote.

Overall, Mike Gallagher saw the commercial litigation practice in Denver as growing.

For Polsinelli PC shareholder Sean Gallagher, the year is shaping up to be a busy one for his practice. Sean Gallagher maintains a national litigation practice with multiple components including employment litigation, general commercial litigation and election law and public policy litigation.

“The downturn in the economy has made companies much more vigilant about protecting their competitive advantages and protecting their businesses against overly expansive government regulation,” Sean Gallagher wrote. “As a result, I have had restrictive covenant and trade secret cases across the country, and have advised clients in multiple industries and in multiple states about potential claims against newly adopted government regulation.”

Sean Gallagher said he thinks threatened or actual litigation is likely to continue in the future in order for clients to achieve their business goals.

“As the economy has slowed, we have seen a significant uptick in litigation involving claims for breach of restrictive covenants as well as misappropriation of trade secret[s],” Sean Gallagher wrote in part.

Christopher Toll, a partner at Holland & Hart LLP, has subspecialties within commercial litigation that include covenants not to compete and emergency injunctive relief.

“The changes over the last year or two stem from recovery from the pandemic,” Toll wrote. “For a couple of years, we were all doing depositions, mediations, and even court appearances by Zoom. Now we are back to doing them in person, and the change is for the better in my view.”

Toll added it’s been a busy year for him and noted that there was possibly pent-up litigation that built up during COVID-19.

As for the future, he hopes “more commercial cases go to trial so that young lawyers (indeed all lawyers) can get trial experience.”

Craig Stewart, a partner who serves on Holland & Hart’s management committee, explained many of his cases involve disputes over control and related issues in closely held corporations or limited liability companies. He also represents defendants in class action disputes.

“I have tried a lot of cases, before both courts and juries, over the last eighteen months,” Stewart wrote. “I don’t know whether that is happenstance or the result of the contracting economy making companies more willing to go the distance, but I think the former.”

Stewart explained Holland & Hart has some great young lawyers who are relatively new partners or on that path.

“I look forward to them taking the reins and continuing to build and strengthen our value to clients in disputes, both in and out of court,” Stewart wrote.

According to announcements Law Week Colorado received from law firms, other commercial litigators who made the Chambers list this year include: Kenzo Kawanabe of DGS; Kelley Duke and K.C. Groves of Ireland Stapleton Pryor & Pascoe, PC; Christopher Koenigs and Katie Varholak at Sherman & Howard; Frederick Baumann and James Lyons of Lewis Roca Rothgerber Christie LLP; Heather Carson Perkins at Faegre Drinker Biddle & Reath LLP; Stacy Carpenter at Polsinelli; Richard Benenson of Brownstein Hyatt Farber Schreck, LLP; and Carolyn Fairless, John Fitzpatrick, Hugh Gottschalk, Michael O’Donnell, Katie Reilly, Malcolm Wheeler and Michael Williams of Wheeler Trigg O’Donnell LLP.