



LAMAR F. JOST

Partner

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LaMar Jost defends high-stakes cases involving medical malpractice, product liability, mass torts, and complex commercial matters. He has handled significant professional liability and tort cases in 30 states, the District of Columbia, and in tribal courts.

EDUCATION

University of Wyoming College of Law, J.D., 2002
Order of the Coif
Wyoming Law Review, Comment Editor

University of Wyoming, B.S., 1999, Political Science
Outstanding Political Science Graduate

GOVERNMENT SERVICE

Law Clerk to The Honorable Bobby R. Baldock, United States Court of Appeals for the Tenth Circuit

Law Clerk to The Honorable Clarence A. Brimmer, United States District Court for the District of Wyoming

ADMISSIONS

Colorado
District of Columbia
Georgia
Georgia Court of Appeals
Illinois
Iowa
Maryland
Michigan
New Mexico
Utah
Washington
Wind River Tribal Court
Wyoming

HIGHLIGHTS

- Won summary judgment for a dental school in a wrongful death case in district court.
- Won summary judgment for a hospital in a medical malpractice case in Utah state court.
- Won a motion to dismiss for a nurse and staffing agency sued under New Mexico's Wrongful Death Act amid emerging abortion law in the U.S. The court dismissed the plaintiff's claim with prejudice, agreeing with WTO's arguments and finding no cause of action existed under New Mexico law.
- Won a jury verdict in a \$40 million medical malpractice trial.
- Won a \$30M medical malpractice appeal in Minnesota.
- Won a defense verdict in a \$27 million medical malpractice trial in Iowa.
- Won summary judgment in a \$30 million birth injury case in Minnesota.

INDUSTRIES

- Professional Services
- Energy
- Healthcare
- Insurance
- Legal Services

PRACTICE AREAS

- Product Liability
- Appellate
- Mass Torts
- Commercial Litigation
- Employment
- Catastrophic Injury Defense
- Environmental Litigation
- Healthcare Professional Liability
- Legal Professional Liability

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BIOGRAPHY

LaMar Jost defends high-stakes cases involving medical malpractice, product liability, mass torts, and complex commercial matters. He has handled significant professional liability and tort cases in 32 states, the District of Columbia, and in tribal courts.

Through each stage of the litigation process, LaMar anticipates and responds to his clients' needs. He is aggressive in fact and expert discovery, proactive at mediation, and always ready to defend his clients at trial. As one client commented, he is "creative, enthusiastic, and a relentlessly hard worker."

LaMar has tried several eight and nine-figure multimillion-dollar medical malpractice and personal injury cases in California, Colorado, the District of Columbia, Florida, Illinois, Iowa, Maryland, Michigan, Minnesota, Nevada, New Jersey, Pennsylvania, South Carolina, Texas, Utah, and Wyoming. He has won a significant majority of those medical malpractice and wrongful death trials. He has won summary judgments for a Fortune 10 manufacturing company in Wyoming and Washington. He has won legal malpractice cases in Wyoming and Missouri. He has successfully briefed a matter of first impression under CERCLA in the Tenth Circuit and then successfully opposed the plaintiff's petition for certiorari from the U.S. Supreme Court. He has won *Daubert* and *Frye-Mack* motions and hearings in several jurisdictions. LaMar has also represented clients in federal multidistrict litigation in Pennsylvania and Massachusetts, and in cases remanded from multidistrict litigation.

In addition to trial work, LaMar has an active appellate practice. He has handled complex appeals for companies and individuals in a variety of practice areas, including constitutional law, environmental law, insurance, tort, professional liability, and intellectual property. LaMar has argued and briefed several appeals in the Tenth Circuit, Colorado appellate courts, Georgia Court of Appeals, and D.C. Court of Appeals, and the Wyoming Supreme Court. Through the appellate process, LaMar has assisted in making law favorable to hospitals, physicians, and industry.

CASES

- Won summary judgment for a dental school in a wrongful death case in district court. The plaintiff alleged the university dentistry team should have administered antibiotics before a dental procedure, which would have avoided the plaintiff contracting influenza, pneumonia, and eventually dying from complications related to an infection. Agreeing with WTO's arguments that the plaintiff did not prove that the failure to administer antibiotics caused death, the court granted summary judgment and dismissed the claim with prejudice.

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- Won summary judgment for a hospital in a medical malpractice case in Utah state court. WTO proved the absence of medical negligence through requests for admission and a lack of expert testimony to support the plaintiff's case. The court granted summary judgment based on a lack of evidence of negligence after discovery.
- Won a motion to dismiss for a nurse and staffing agency sued under New Mexico's Wrongful Death Act amid emerging abortion law in the U.S. The court dismissed the plaintiff's claim with prejudice, agreeing with WTO's arguments and finding no cause of action existed under New Mexico law.
- Won a jury verdict for a healthcare team in a \$40 million medical malpractice trial in Des Moines, Iowa.
- Won a precedent-setting appeal in Minnesota affirming WTO's summary judgment victory in a \$30 million alleged birth injury case involving cranial compression ischemic encephalopathy (CCIE), a heavily disputed causation theory agreed to be "junk science" by the scientific and medical communities.
- Won a complete defense jury verdict in a \$27 million medical malpractice trial in Iowa involving an alleged negligent neurosurgical operation.
- Won summary judgment for an obstetrician-gynecological practice in a high-exposure case in Minnesota involving an alleged birth injury and \$30 million in damages.
- Called in two weeks before trial, won a defense verdict in a multimillion-dollar medical negligence trial in Utah for an orthopedic surgeon and physician's assistant accused of allowing a patient to slide off the operating table, allegedly leading to permanent brain and spine injuries. WTO demonstrated that the plaintiff's complaints were actually due to prescription drug overuse and that the plaintiff had lied under oath.
- Won a *Frye-Mack* hearing to exclude expert testimony and Cranial Compression Ischemic Encephalopathy (CCIE) causation theory in a Minnesota birth injury case involving issues of first impression. The resulting order will help defense attorneys nationwide against CCIE claims.
- Obtained a significant excessive force settlement payment for a pro bono client who survived an assault by police.
- Won dismissal for a Colorado-based manufacturer in an asbestos product liability case in the plaintiff-friendly "judicial hellhole" of St. Clair County, Illinois. WTO asserted jurisdictional defenses at the pleading stage and later won dismissal after the plaintiff's deposition.

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- Won voluntary dismissal in federal court in Colorado for a major gas station company facing federal and state toxic tort claims brought by a real estate developer. The plaintiffs voluntarily dismissed their claims after WTO demonstrated that the gas station's underground gas tanks did not contaminate the plaintiffs' adjacent land and water.
- Won a defense verdict in a three-week trial for a Michigan hospital following an in-hospital cardiac arrest and alleged brain injury. The plaintiff sought more than \$14 million in damages in plaintiff-friendly downtown Detroit. The jury found for WTO's client after deliberating for less than 20 minutes.
- Obtained summary judgment for a national legal malpractice carrier in an attorney-lien enforcement action in Wyoming district court. In this matter of first impression, the Court held that the plain language of the statute precluded the plaintiff law firm's attorney-lien and constructive fraud claims. As the prevailing party under the statute, WTO obtained a significant award of attorneys' fees and costs for its client.
- Obtained dismissal of Colorado-based manufacturer in a product liability case in Madison County, Illinois. WTO asserted various jurisdictional and workers' compensation defenses at the pleading stage, obtaining a rare dismissal in a multimillion-dollar lawsuit in one of the worst venues for defendants in the United States.
- Submitted an amicus brief for a Wyoming client in a Tenth Circuit appeal involving the boundaries of a Native American reservation. The issue involved potential expansion of tribal court jurisdiction over hundreds of businesses and thousands of residents outside the reservation. In its opinion, the Court agreed with WTO's client.
- Obtained dismissal for an Ohio hospital in a medical malpractice action. WTO lawyers, with co-counsel from Ohio, successfully challenged the plaintiff's unscientific and unsupported theory that cranial compression from the normal birth process can cause brain damage. Plaintiff voluntarily dismissed the case during a *Daubert* hearing after examination of only two of plaintiff's seven scheduled experts.
- Won a complete defense verdict and dismissal of punitive damages claims for a Wyoming hospital and codefendant physicians facing non-negotiable \$19 million negligence claims brought by a plaintiff who suffered a stroke following emergency room treatment for a head wound.
- Obtained summary judgment for General Electric Company in an asbestos liability case in the U.S.D.C. for the District of Wyoming.

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- Defended the appeal to the Tenth Circuit of a 2010 jury verdict WTO won for AT&T in a high-profile whistleblower case. *Law Week Colorado* called the underlying trial court victory one of the "Top Defense Verdicts of 2010."
- Won a \$4.2 million judgment for a renewable energy client involving an executive's embezzlement from the company.
- Affirmed on appeal to the D.C. Court of Appeals WTO's unanimous defense jury verdict for a hospital after a three-week trial in Washington, D.C. The plaintiffs alleged the doctor provided less than the standard of care, resulting in an infant's cerebral palsy. WTO established the child's condition was attributable to his 14-week premature birth.
- Won a jury defense verdict in Louisiana in a premises liability case in which a sign in an AT&T store fell and injured a child.
- Obtained a Rule 12(b) dismissal of a complaint filed in federal court in Missouri against a large international law firm. The plaintiffs ultimately obtained an eight-figure jury verdict against the remaining defendants in the case.
- Won a jury verdict in Cook County, Illinois, for General Electric in an asbestos duty to warn case involving power plant land turbines.
- Won affirmation of a trial court's summary judgment ruling and exposed "pollution for profit" in protracted CERCLA litigation for our engineering client before the Tenth Circuit.
- Won affirmance from the Tenth Circuit of summary judgment for an insurer in a case seeking unlimited no-fault benefits for alleged failure to offer no-fault benefits.
- Obtained dismissal of a complaint filed with the Colorado Department of Regulatory Affairs against WTO's nurse client. After an extensive investigation, DORA dismissed the complaint in a non-appealable, final agency action based upon WTO's response.

TEACHING POSITIONS

- Faculty ABA-ABOTA National Trial Academy
Faculty CBA-CLE
Guest Lecturer, St. Mary's Law School
Eastern New Mexico University
Adjunct Professor
Guest Lecturer, University of Northern Colorado

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REPRESENTATIVE CLIENTS

- AEIX/Premier Risk Retention Group - National Trial Counsel for AEIX's Members and Insureds
- Constellation/MMIC - National Trial Counsel for Constellation Insureds
- Curi - National Trial Counsel for Curi Insureds
- Emory University - National Trial Counsel
- LifePoint Health, Inc. - National Trial Counsel
- MedStar Health - National Trial Counsel
- Presbyterian Healthcare Services - National Trial Counsel
- UnityPoint Health - National Trial Counsel
- Universal Health Services - National Trial Counsel
- University of Utah - National Trial Counsel

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BAR & COURT ADMISSIONS

- Colorado
 - District of Columbia
 - Georgia
 - Georgia Court of Appeals
 - Illinois
 - Iowa
 - Maryland
 - Michigan
 - New Mexico
 - Utah
 - Washington
 - Wind River Tribal Court
 - Wyoming
 - U.S. Supreme Court
 - U.S. Court of Appeals, 10th Circuit
 - U.S. Court of Appeals, 4th 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. Colorado
 - U.S. District Court, D. Columbia
 - U.S. District Court, D. Idaho
 - U.S. District Court, D. Maryland
 - U.S. District Court, D. New Mexico
 - U.S. District Court, D. Utah
 - U.S. District Court, D. Wyoming
 - U.S. District Court, E.D. Wisconsin
 - U.S. District Court, N.D. Georgia
 - U.S. District Court, N.D. Illinois
 - U.S. District Court, N.D. Iowa
 - U.S. District Court, S.D. Iowa
 - U.S. District Court, W.D. Washington

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LEGAL MEMBERSHIPS, ACTIVITIES & HONORS

- Colorado Super Lawyers
 - Personal Injury - Medical Malpractice Defense, 2018-2024
- The Best Lawyers in America
 - Commercial Litigation, 2022-2024
- Martindale-Hubbell AV® Peer Review Rated
- Colorado Rising Stars
 - Personal Injury Defense: Products, 2009-2017
- 5280 Magazine
 - Top Lawyer
 - Personal Injury: Defense, 2015
- Denver Business Journal
 - Forty Under 40, 2015
- Law Week Colorado
 - Up-and-Coming Lawyer, 2007
 - Top Litigator, 2024
- Colorado SOLACE Program – Chairman
- Colorado Attorney Mentoring Program – Mentor
- New Mexico Medical Review Committee
- Faculty of Federal Advocates
- Colorado Bar Association
- Denver Bar Association
- New Mexico Bar Association
- Wyoming Bar Association
- Federalist Society
- Denver Health Foundation's *Inaugural Grand Rounds Class of 2016*
- Colorado Defense Lawyers Association
 - Amicus Committee
- American Legal Connections

ARTICLES & PRESENTATIONS

Articles

- Co-Author, "The Affordable Care Act and Colorado's Collateral Source Rule," *Denver Law Journal*, (June 21, 2016).
- "Constitutional Law - The Commerce Clause in the New Millennium: Enumeration Still Presupposes Something Not Enumerated," 1 Wyo. L. Rev. 195, (2001).

Books

- *Deposing Experts in Medical Malpractice Cases*, (April 2023).
- *Medical Records as Evidence*, (December 2017).

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Book Chapters

- "Medical Malpractice," *Colorado Civil Claims: Elements, Defenses, and Sample Pleadings*, 1st ed, (2019).
- "Witness Preparation Primer: Inviting a Witness to Provide Truthful and Favorable Testimony," *Mastering the Art of Preparing Witnesses*, (December 2017).
- "Deconstructing the Key Liability Expert: Strategy and Secrets for Successful Cross-Examination," *From the Trenches: Strategies and Tips From 21 of the Nation's Top Trial Lawyers*, (2015).
- "Commencement of the Action and Service of Process," *Colorado Methods of Practice*, Chapter 26, (2014).
- "Civil Jury Trials" *Colorado Methods of Practice*, Chapter 27, (2014).
- "Pleadings" *Colorado Methods of Practice*, Chapter 28, (2014).
- "The Colorado Court System," *Colorado Methods of Practice*, Chapter 23, (2014).

Presentations

- Presenter, "The Art of Visual Trial Presentation," American Excess Insurance Exchange, (December 22, 2023).
- Presenter, "Throw Out the Playbook, the Visiting Team Plays by Different Rules" (presentation related to the identification, work up, and negotiation strategy in catastrophic claims), Hospital C-Suite Insurance Forum, (September 25, 2023).
- Presenter, "Debrief from a Defense Verdict in Iowa," American Legal Connections, (June 8, 2023).
- Presenter, "See You at Trial! Signaling for Strategic Negotiation," AEIX Claims Caucus, (April 27, 2023).
- Presenter, "From the Trenches: Fighting Junk Medicine," Claims and Panel Attorneys of American Excess Insurance Exchange, (April 11, 2023).
- Presenter, "Nurse Practitioner Malpractice Claims," University of Northern Colorado, (December 6, 2022).
- Co-presenter, "New Perspectives on Challenges to Expert Testimony," American Legal Connections Conference, (September 29, 2022).
- Presenter, "Myths vs. Truths: Examining Placental Pathology Challenges in Pregnancy Outcomes and Birth Injury Litigation," ACI's 20th Annual Advanced Forum on Obstetrics Malpractice Claims, (November 18, 2021).

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- Presenter, "Avoiding Medical Malpractice: Clinical Practice & Pointers," University of Northern Colorado, (December 3, 2020).
- Presenter, "Living With & Mitigating the Threat of Medical Malpractice," University of Northern Colorado, (December, 2019).
- Presenter, "Complex Civil Litigation: Discovery to Trial," St. Mary's Law School, (April 10, 2019).
- Presenter, "Preserving the Record for Appeal: Critical Pointers," The ABA-ABOTA National Trial Academy, (April 13, 2019).
- Presenter, "Business Law Torts," The Colorado Bar Association's Annual Tort Law Update 2017 CLE, (September 26, 2017).
- Presenter, "How to Attack Multi-Million Dollar Life Care Plans," MedStar Defense Counsel Retreat, (July 17, 2017).
- Presenter, "Rethinking Future Medical Expenses in the Age of ObamaCare," The 2016 Wyoming State Bar Annual Meeting & Judicial Conference, (September 15, 2016).
- Presenter, "Damage Calculations in Tort Actions: Effect of the Affordable Care Act," The Colorado Defense Lawyers Association 2016 Annual Conference, (July 30, 2016).
- Presenter, "The Affordable Care Act and Potential Implications for Damages Calculations in Medical Negligence Cases," CBA-CLE Medical Malpractice: Hot Topics 2016, (April 15, 2016).
- Presenter, "Damage Calculations in Tort Actions: Effect of the Affordable Care Act," The CLE at the Colorado Bar Association's Annual Tort Law Update, (October 15, 2015).
- Presenter, "Getting on the Right Side of the 'v.': Suing and Being Sued for Business Torts," The Association of Corporate Counsel's In-House Counsel Forum, (April 16, 2014).
- Presenter, "Business Torts," The CBA Litigation Section's Tort Law Update 2013, (September 20, 2013).
- Presenter, "Wyoming and Colorado Liquor Liability Laws," Colorado Claims Association, (October 5, 2007).

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PERSONAL INTERESTS

- Ultramarathons: completed a 200 mile ultramarathon; a 150 mile ultramarathon across the Utah desert in June; five 100 mile ultramarathons; and numerous 100 kilometer and 50 mile ultramarathons.