



## KEVIN D. HOMIAK

### Of Counsel

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**Kevin Homiak represents sophisticated clients in complex commercial litigation and professional liability defense. He has won multiple jury verdicts as lead trial counsel and, through aggressive motions practice, has won the complete dismissal of high-stakes claims against his clients. Kevin is also the Co-Chair of Wheeler Trigg O'Donnell's Pro Bono Committee. His victories for pro bono clients include some of the largest awards in Colorado history.**

### EDUCATION

Georgetown University, J.D., 2014, *cum laude*, *American Criminal Law Review*, Senior Articles Editor

George Washington University, Elliott School of International Affairs, B.A., 2010, Middle East Studies, *summa cum laude*

### GOVERNMENT SERVICE

Law Clerk to The Honorable James O. Browning, U.S. District Court, District of New Mexico

### OTHER EXPERIENCE

Homiak Law LLC, Partner  
Gibson, Dunn & Crutcher LLP, Associate  
U.S. Attorney's Office, Southern District of New York, Legal Intern  
Georgetown Juvenile Justice Clinic, Student Attorney

### ADMISSIONS

Colorado  
New Mexico

### HIGHLIGHTS

- Won case ending summary judgment for one of the world's largest companies in a \$60 million catastrophic injury case.
- WTO Secured Historic \$1.1 Million Pro Bono Settlement for Inmate
- Serving as appellate counsel for one of the largest companies in New Mexico in a case involving an approximately \$20 million verdict.
- Won a \$340,000 damages award for a pro bono client whose landlord brought an eviction suit against them. WTO's client brought counter-claims for their landlord after physically attacking them and threatening their family, turning off their heat and water, and failing to repair electrical and dangerous conditions. The landlord's eviction case was dismissed for failure to prosecute, and an evidentiary hearing on damages was set, in which the court ordered \$100,000 in additional punitive damages on top of our client's request.
- Assisted with post-trial motions that formed the basis of a subsequent reversal of a trial verdict by the Colorado Court of Appeals.
- Won case-ending summary judgment in New Mexico state court for a hospital client facing significant exposure on a medical malpractice claim.
- Led internal investigation of criminal allegations against a hospital employee in conjunction with local law enforcement, which led to the complete exoneration of the employee, no criminal charges being filed, and the related civil suit in New Mexico state court being dismissed with a nuisance-value settlement.

### INDUSTRIES

- Healthcare
- Professional Services

### PRACTICE AREAS

- Healthcare Professional Liability
- Pro Bono
- Appellate
- Commercial Litigation
- Professional Liability

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## BIOGRAPHY

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In addition to his litigation practice, Kevin represents individuals and companies in civil enforcement actions and criminal investigations. These include investigations by local law enforcement, the U.S. Department of Justice, the U.S. Securities and Exchange Commission, and the U.S. Air Force Office of Special Investigations. Kevin is currently listed as a Colorado Rising Star for Professional Liability Defense.

## CASES

### Professional Liability

- Won case-ending summary judgment in New Mexico state court for a hospital client facing significant exposure on a medical malpractice claim.
- Obtained a favorable settlement for AmLaw 100 law firm client facing a \$50 million legal malpractice claim based on an effective motion for summary judgment and defending depositions of the firm's general counsel and key fact witnesses.
- Obtained a nuisance-value settlement for a Colorado law firm client and the firm's named partner facing a \$4 million legal malpractice claim based on taking compelling depositions of the plaintiffs' representatives and defending the deposition of the named partner.
- Obtained a complete defense verdict in a three-week federal court jury trial for three healthcare providers facing \$27 million malpractice claims involving an intracranial bacterial infection.
- Led internal investigation of criminal allegations against a hospital employee in conjunction with local law enforcement, which led to the complete exoneration of the employee, no criminal charges being filed, and the related civil suit in New Mexico state court being dismissed with a nuisance-value settlement.
- Won summary judgment on all claims against a hospital management company facing allegations that its employees at a psychiatric treatment facility negligently discharged a patient who later committed a triple-murder suicide.

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- Obtained complete dismissal of wrongful death claims in New Mexico state court without payment based on compelling expert reports, fact witness depositions, and motions practice.

## Appeals

- Won case ending summary judgment for one of the world's largest companies in a \$60 million catastrophic injury case.
- Serving as appellate counsel for one of the largest companies in New Mexico in a case involving an approximately \$20 million verdict.
- Assisted with post-trial motions that formed the basis of a subsequent reversal of a trial verdict by the Colorado Court of Appeals.
- Serving as appellate counsel for a large hospital system in Oklahoma in a case involving a \$45 million verdict.
- Drafted an amicus brief arguing that the Colorado Supreme Court should hold 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. The Colorado Supreme Court adopted the defendants' position.

## Pro Bono

- Secured a historic \$1.1 million settlement in a civil rights case for a pro bono client stabbed 43 times in prison.
- Won a \$340,000 damages award for a pro bono client whose landlord brought an eviction suit against them. WTO's client brought counter-claims for their landlord after physically attacking them and threatening their family, turning off their heat and water, and failing to repair electrical and dangerous conditions. The landlord's eviction case was dismissed for failure to prosecute, and an evidentiary hearing on damages was set, in which the court ordered \$100,000 in additional punitive damages on top of our client's request.
- Won a record-setting \$3.5 million jury verdict as lead trial counsel against the Colorado Department of Corrections for intentionally discriminating against his pro bono client by denying him access to over 2,000 meals in a five-year period in violation of the Americans with Disabilities Act. This represented the highest reported jury verdict nationwide for an ADA claim brought against a corrections system.
- Won a preliminary injunction in Colorado federal court to transfer an incarcerated pro bono client to protective custody after he was viciously stabbed over 40 times by other inmates for serving as a cooperating witness in a murder prosecution.

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- Won a record-setting \$750,000 settlement for a pro bono client in a case involving claims for excessive force and denial of timely medical care while the client was detained at the El Paso County Criminal Justice Center. This represented the highest settlement in any civil rights case by El Paso County, Colorado.
- Won a \$300,000 settlement in two cases brought against the City of Aurora and several Aurora police officers for unlawfully searching and seizing a pro bono client in violation of his Fourth Amendment rights.
- Won a \$180,000 verdict as lead trial counsel for a pro bono client against two corrections officers who had violated the client's First and Fourteenth Amendment rights.
- Secured the complete dismissal of felony charges against a cadet at the U.S. Air Force Academy after leading a months-long investigation uncovering widespread misconduct among federal law enforcement officers and prosecutors involved in the case.

## BAR & COURT ADMISSIONS

Colorado

New Mexico

U.S. Supreme Court

U.S. Court of Appeals, 10th Circuit

U.S. District Court, D. Colorado

U.S. District Court, D. New Mexico

U.S. District Court, S.D. New York

## LEGAL MEMBERSHIPS, ACTIVITIES & HONORS

Colorado Super Lawyers

Rising Stars, Professional Liability: Defense, 2022-2024

Member, Civil Pro Bono Committee of the Faculty of Federal Advocates

Appointee, Pro Se Prisoner Task Force for the U.S. District Court for the District of Colorado

## ARTICLES & PRESENTATIONS

### Presentations

- Presenter, "Barriers to Competent Representation of Diverse and Underserved Populations and Strategies and Resources to Mitigate Bias," 15th Annual Rocky Mountain Elder Law Retreat, (August 2023).
- "Lessons Learned from \$3.5 Million Jury Verdict in ADA Intentional Discrimination Case in Colorado Federal Court," Colorado Trial Lawyers Association's Civil Rights Committee, (February 2023).

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- Presenter, "The Constitution as a Living Document," Young Lawyers Division of the Larimer County Bar Association, (May 2022).
- Presenter, "In the Trenches with the Pro Bono Panel: How to Litigate a Pro Se Plaintiff's Section 1983 Claim from Appointment to Verdict," Faculty of Federal Advocates, (January 2021).
- "Practical Judicial Ethics Dilemmas: The Lawyer's Perspective," Fourteenth Biennial Judicial Ethics Training, (December 2018).

## PERSONAL INTERESTS

- Rock climbing, skiing, and hiking