

## ATTORNEY PROFILES



**Walter (Woody) W. Garnsey, Jr.**  
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Woody Garnsey has been at KGHL since 1974. His practice consists of dispute resolution through mediation and litigation in state and federal courts, as well as administrative agencies and arbitration tribunals. He specializes in commercial disputes, including contracts, financial institutions, securities, construction, and real estate law. He also specializes in employment law and federal Indian law.

Prior to joining KGHL, Woody was a trial attorney for two years with the Equal Employment Opportunity Commission at the Denver Regional Litigation Center. He spent the preceding two years as an associate at the Denver law firm of Holland & Hart.

Woody graduated *cum laude* from Yale University in 1967, where he also was awarded the John Addison Porter Prize. He received his J.D. from Stanford University in 1971.

Woody is a Fellow of the American College of Trial Lawyers. He has the distinction both of having been named in The Best Lawyers in America every year since its first publication in 1983 and of being included as a commercial litigator in all editions of *Chambers USA America's Leading Business Lawyers* since its initial publication in 2003. He has also been listed as one of the Top 50 Lawyers in each publication of *Colorado Super Lawyers*. He has a Martindale-Hubbell rating of AV, signifying the highest peer rating for ethical standards and professional excellence.

As a member of the Colorado Lawyer Trust Account Foundation (COLTAF) Board of Directors from 2004 to 2009, Woody served as its President for 2006 and 2007. He previously served on the Board of Directors of the Legal Aid Foundation of Colorado from 1991 to 1997, serving as its Vice Chairman from 1994 to 1997. He has also been active with the Denver and Colorado Bar Associations.

Woody served on the Board of Directors and the Executive Committee of the International Network of Boutique Law Firms ([www.inblf.com](http://www.inblf.com)) from 2004 to 2009. He was President of its Denver Chapter from 2004 to 2007.

Married, with two daughters and five grandchildren, Woody's family continues to be one of his highest priorities. He is an active photographer, downhill and cross-country skier, hiker, sailor, tennis player and bicyclist. Weather permitting, he has commuted to work on his bicycle since 1971.

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### Representative Cases

*AMAX Potash Corp. v. Holnam, Inc.* (Denver District Court). Represented defendant former owner of potash mine in action seeking \$55 million damages claimed resulting from alleged breaches of contract regarding sale

of mine. Lawsuit settled during defendant's appeal following \$5.1 million jury verdict for plaintiff.

*Ayres v. Distinctive Addresses, Ltd.* (American Arbitration Ass'n; Denver District Court). Represented plaintiff property owners in construction dispute with general contractor. Secured judgment voiding \$99,000 mechanics lien and awarding money damages to plaintiffs.

*Bird et al. v. First Wyoming Bank N.A., Lusk, et al.* (U.S. District Court, Wyoming; Tenth Circuit Court of Appeals). Represented plaintiffs in dispute with national bank regarding alleged partnership liabilities to bank and rights to proceeds from sale of partnership assets. Secured jury verdict in favor of plaintiffs and secured Tenth Circuit Court of Appeals reversal of trial court's judgment notwithstanding verdict.

*Cache National Bank v. Hinman* (U.S. District Court, Colorado). Represented plaintiff national bank in action against former bank director and president for losses resulting from overline loans made in violation of federal banking laws. Lawsuit settled before trial.

*DTCB, Inc. et al. v. Pool, et al.* (Denver District Court). Represented plaintiff commercial property owner in action against former property owner and real estate agent seeking damages for environmental contamination discovered on property after real estate closing. Claims asserted for breach of contract, negligent misrepresentation, fraudulent misrepresentation, and fraudulent non-disclosure and concealment. Lawsuit settled before trial.

*Egan et al. v. American Can Company, et al.* (National Labor Relations Board; Tenth Circuit Court of Appeals). Represented employees terminated as result of reduction in force challenging legality of superseniority given to certain union officers in layoff. Secured N.L.R.B. order making Egan whole for violation of the National Labor Relations Act and enjoining the company and the union from further illegal use of superseniority. Originally as petitioners and subsequently as intervenors, participated in Tenth Circuit Court of Appeals review and enforcement actions resulting in appellate court enforcement order in favor of Egan.

*Estelle Wolf Art Investments, LLC v. Estelle Wolf* (American Arbitration Ass'n; Denver District Court). Represented limited liability company in disputes with member regarding valuable art collection. Defeated court motion to stay arbitration and secured court order compelling arbitration. Secured successful arbitration award confirmed by court.

*Fairbanks v. New England Patriots Football Club, Inc.* (Boulder County District Court). Represented defendant professional football team in contract dispute with former head coach. Secured judgment in favor of defendant.

*Grassfield v. POCOL Investments* (Denver District Court). Represented plaintiff retailer in action against lessor regarding use of parking structure adjacent to retailer's store. Secured temporary restraining order and preliminary injunction preventing demolition of parking structure and interference with retailer's use of parking structure. Within 6 months, secured permanent injunction providing similar relief.

*Hawley & Vanderwerf P.C., et al. v. Connecticut Mutual Life Insurance Co., et al.* (Arapahoe County District Court) and *Fleming, et al. v. G.R. Phelps, Inc.* (National Association of Securities Dealers arbitration). Represented insurance company and broker-dealer subsidiary in securities litigation. Lawsuit and arbitration settled before trial.

*Hunter, et al. v. Veldkamp's, Inc.* (U.S. District Court, Colorado). Represented defendant employer in federal age discrimination action brought by two terminated former employees. Lawsuit settled before trial.

*Ideal Basic Industries, Inc. v. Arthur D. Little Valuation, Inc.* (U.S. District Court, Colorado). Represented plaintiff cement manufacturer in action alleging breach of fiduciary duties and breach of contract arising from consulting contract. Lawsuit settled before trial.

*Lopez v. Board of Water Commissioners* (U.S. District Court, Colorado). Represented plaintiff employee in lawsuit against public entity employer alleging national origin discrimination. Secured judgment for plaintiff including backpay, retroactive promotion, and attorneys fees.

*Lyons v. Jefferson Bank & Trust* (U.S. District Court, Colorado; Tenth Circuit Court of Appeals). Represented plaintiff Iowa Insurance Commissioner as receiver for trust comprised of 88 Iowa public entities in action to secure \$42.8 million stolen by investment advisor Steven D. Wymer and transferred to defendant bank. Secured preliminary injunction moving \$43.1 million to third-party escrow account; within 5 months of filing complaint, secured permanent injunction for transfer of funds to plaintiff; within 18 months of filing complaint, secured appellate court affirmance of trial court's constructive trust judgment and reversal of trial court's denial of \$1.3 million pre-judgment interest on stolen funds.

*McRae et al. v. Etter, et al.* (Denver District Court). Represented plaintiff citizens group in action against City and County of Denver regarding legal uses of 19th Century pavilion in Denver's City Park. Within five months of filing complaint, secured permanent injunction preventing city from converting pavilion into offices for Denver's Parks and Recreation Department and mandating that uses of pavilion must be consistent with city zoning requirements and park and with recreational activities of citizen park users.

*Rossiter v. Zalesky et al.* (Denver District Court). Represented defendant limited partnership commercial real estate owner and related partnership and corporate entities in action by partner/shareholder alleging breaches of fiduciary duties, tortious interference with contract, and conversion and seeking relief including money judgment, accountings, dissolution of entities, and appointment of receiver for entities. Successfully defeated motion for appointment of receiver *pendente lite* and secured summary judgment in favor of defendants on all but accounting claims. Trial pending on remaining accounting claims.

*St. Anthony Hospital Systems, Inc. v. Deloitte, Haskins, and Sells* (Denver District Court). Represented defendant accounting/management consulting firm in action alleging breach of contract and negligence related to hospital's purchase and installation of computer system. Lawsuit settled before trial.

*SGL Holdings II LLC v. Novartis International AG, et al.* (U.S. District Court, Colorado). As co-counsel with Kaye Scholer LLP, represented defendants in defense of multi-million dollar lawsuit alleging breach of an alleged contract to purchase a Global Express corporate jet airplane. Lawsuit settled before trial.

*Shamrock Logistics Operations, L.P. v. Babbitt et al.* (U.S. District Court, New Mexico). Represented American Indian Tribe officials in disputes with oil company regarding construction of gasoline pipeline on tribal lands. Disputes and lawsuit settled with \$2.5 million payment to Tribe in addition to substantial obligations of oil company to restore damaged tribal lands.

*Siegsmund vs. Carik Services, Inc.* (Judicial Arbitrator Group, Inc. arbitration) and *Carik Services, Inc. v. Siegsmund* (Denver District Court). Represented management employee in dispute with former employer regarding contractual severance compensation. Secured \$1 million arbitration award confirmed by court.

*Theis v. Board of Water Commissioners* (U.S. District Court, Colorado). Represented defendant public entity employer in lawsuit brought by ex-employee following reduction in force layoff; claims included alleged violation of constitutional rights and age discrimination laws and alleged breaches of express and implied contract rights; summary judgment in favor of defendants on all but federal age discrimination claims; defense jury verdict on federal age discrimination claims.

## **Employment History**

- Kelly Garnsey Hubbell + Lass LLC (Denver, Colorado): Member, 1974-present

- Denver Regional Litigation Center, Equal Employment Opportunity Commission: Trial Attorney, 1973-1974
- Holland & Hart (Denver, Colorado): Associate, 1971-1973

### **Education**

J.D., Stanford University, 1971

B.A., Yale University, 1967, *cum laude*

Honors: Recipient John Addison Porter Prize

### **Licensure**

Admitted to practice in Colorado, United States District Court for the District of Colorado, Tenth Circuit Court of Appeals, and United States Supreme Court.

### **Civic and Professional Activities**

- Denver, Colorado, and American Bar Associations: Member.
- Denver Bar Association Legal Services Committee: Member, 1982-present; Chair, 1990-1994.
- Board of Governors, Colorado Bar Association: Member, 1991-1994.
- American College of Trial Lawyers: Fellow.
- Included in *The Best Lawyers of America* in all editions since first publication in 1983.
- Included in *Chambers USA America's Leading Business Lawyers*, 2003-2008 editions; category: general commercial litigation ([www.chambersandpartners.com/usa](http://www.chambersandpartners.com/usa)).
- Martindale-Hubbell "AV" rating.
- U.S. District Court, District of Colorado Civil Justice Reform Act Advisory Group: Member, 1994-1997.
- Colorado Lawyer Trust Foundation: Board, 2004-2009; President, 2006 and 2007.
- International Network of Boutique Law Firms: Board and Executive Committee, 2004-2009; President, Denver Chapter, 2004-2007.
- Legal Aid Foundation of Colorado: Board, 1991-1997; Vice Chair, 1994-1997.
- Stedman Elementary School (Denver Public Schools) PTSA: President, 1982-1984.

### **Publications**

"Prejudgment Interest in Constructive Trust Remedy Actions,"  
23 *The Colorado Lawyer* 351 (February, 1994).

### **Languages**

Spanish