



CLARE PENNINGTON

Director

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Denver, Colorado

Clare Pennington is an experienced civil litigator and complex case manager working out of our Denver office. Clare focuses her practice on civil and commercial litigation. She has worked on complex business disputes involving a variety of companies, from family businesses to Fortune 500 corporations. Clare has experience in all aspects and phases of litigation including e-discovery, trial preparation, trial, and appeal. She is an experienced case manager who has directed the work of trial teams on some of the firm's largest cases.

Throughout her distinguished career, Clare's legal research and writing skills have allowed her to tackle the most difficult, and often novel, issues faced by our firm's clients. Clare has experience in all phases of trial, with a particular focus and specialty in the cross-examination of opposing expert witnesses. She has successfully cross-examined experts across multiple disciplines including forensic accounting, actuarial science, and materials and mechanical engineering.

Before entering private practice, Clare served as a judicial law clerk to the Hon. Nancy E. Rice of the Colorado Supreme Court. Through the clerkship, Clare gained valuable research and writing experience, as well as exposure to diverse areas of civil and criminal law.

EDUCATION

- J.D., University of Colorado Law School
- B.A., Bradley University

AREAS OF PRACTICE

- Business Litigation
- Appeals
- Complex Civil & Commercial Litigation
- Fiduciary Litigation

REPRESENTATIVE CASES

- Represented multiple plaintiffs in highly-complex litigation against several bank trustees and numerous other defendants, securing significant recoveries through settlement and

substantial judgments. The litigation arose out of a multi-state fraud scheme involving National Prearranged Services, Inc. (a Missouri-based preneed funeral contracts seller) and its two related insurance companies domiciled in Texas. Clare and others were retained by 35 state life and health insurance guaranty associations, NOLHGA, and the Texas Special Deputy Receiver to seek recoveries from over 40 defendants, including multiple bank trustees, an accounting firm, and the former officers and directors of NPS and the insurance companies. Plaintiffs' claims included negligence and breach of fiduciary duty against the bank trustees for allowing the preneed trust funds to be looted, accounting malpractice, and RICO (Racketeer Influenced and Corrupt Organizations Act) claims against the former officers and directors. Settlements with most defendants were negotiated before trial, resulting in large recoveries for the clients. A five-week jury trial was held in federal court in Missouri in early 2015, where a jury verdict of \$391 million (including a punitive damages award) was entered against PNC Bank. After the Eighth Circuit remanded the case against PNC Bank for a trial to the Court, Clare was a key member of the trial team that secured a combined \$106 million judgment (\$99 million in compensatory and punitive damages and \$7 million in attorney fees and litigation costs) against PNC Bank for breach of trust. Clare was the lead lawyer on PNC's appeal of the \$106 million judgment. The 8th Circuit affirmed the judgment in its entirety.

- Clare was part of the trial team representing the trustees of the Patrick D. Bowlen Revocable Trust in litigation concerning Mr. Bowlen's Trust, estate, and succession of the ownership and control of the Denver Broncos NFL franchise. Clare also represents PDB Sports, Ltd. and Bowlen Sports, Inc. in a currently pending declaratory judgment action concerning a right of first refusal granted in 1984.
- Clare was a member of the trial team that successfully represented DCP Midstream, LP, one of the nation's largest natural gas processing companies, in a jury trial involving complex oil and accounting issues. Successors to a gas purchase and processing agreement sought multi-million-dollar payments for natural gas processed out of the DJ Basin in Weld County. DCP counterclaimed for overpayments, which the jury awarded.
- Successfully represented Target Brands, Inc., a wholly-owned subsidiary of Target, which holds and protects all of the company's trademarks, patents, and other intellectual property. The Colorado Department of Revenue sought more than \$40 million in corporate income tax from TBI. After a two-week trial, the Court entered judgment reducing the tax assessment to \$12.8 million.
- Member of the trial team representing a Colorado refinery owner seeking contractual indemnification from the refinery's former owner for clean-up costs resulting from

leakage from an underground pipe. Following a 3-week confidential arbitration that took place in April and May 2017, the parties reached an amicable settlement.

- Represented AIG in protecting its rights as a certificate holder in connection with a proposed \$8.5 billion settlement of RMBS claims against Bank of America, including as a member of the trial team for an eight-week trial to a New York State Court in 2013.

AWARDS AND HONORS

- *Colorado Super Lawyers®*, *Rising Star®*, 2013-2021
- Law Week, Colorado's Up and Coming Lawyers, Finalist, 2010

ARTICLES AND PRESENTATIONS

- Presenter, "What Business Lawyers Do That Litigators Love," Association of Corporate Counsel, 2015
- Panel Discussion, "What Business Lawyers Do That Litigators Love," Business Law Institute, 2015

PROFESSIONAL AND COMMUNITY ACTIVITIES

- Colorado Model Jury Instructions Committee
- Denver Bar Association
- Colorado Bar Association
- Colorado Trial Lawyers Association
- Colorado Women's Bar Association

ADMISSIONS

- Colorado
- U.S. District Court, District of Colorado
- U.S. Court of Appeals, Tenth Circuit