



## Jonathan Bender

Partner

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**Jon is an experienced trial lawyer whose creative approach helps clients navigate complex problems efficiently, both in and out of the courtroom.**

He has significant experience in federal and state courts, regulatory agencies, arbitrations, and mediations. He focuses his practice on business litigation and state and local tax matters.

In his business litigation practice, he advises clients in a variety of industries, including ski resorts, mining, real estate development, oil and gas, healthcare, hospitality, and financial services. He has broad experience litigating breach of contract, breach of fiduciary duty, negligence, and fraud-based claims, and has successfully tried multiple cases to judgment and verdict.

In his state and local tax practice, he regularly represents clients in sales, use, and property tax matters.

Jon has been recognized by clients, colleagues, adversaries, and neutrals as a top-tier trial lawyer who presents complex concepts simply, clearly, and persuasively. Jon is also a longstanding member of the firm's diversity committee, and currently chairs the retention subcommittee.

### PRACTICES

Business Litigation  
State and Local Tax  
Tax Controversy and Litigation

### EDUCATION

University of Denver College of Law,  
J.D., 2002  
Order of St. Ives  
*Denver University Law Review*, General  
Editor

Wesleyan University, B.A., 1994  
English  
Departmental Honors  
Varsity Lacrosse

### BAR ADMISSIONS

Colorado

### COURT ADMISSIONS

U.S. Tax Court  
U.S. District Court for the District of  
Columbia  
U.S. Court of Appeals for the District of  
Columbia  
U.S. Court of Appeals for the Tenth  
Circuit  
U.S. Supreme Court  
U.S. District Court for the District of  
Colorado

### EXPERIENCE

#### Pro Bono

Jon maintains an active pro bono practice, having represented clients in administrative, district court, and appellate litigation. Notably, he has briefed issues before the United States Supreme Court concerning the legality of lethal injections and the public's right to record public officials performing their official duties. See *Estate of Lockett v. Fallin*, Case No. 16-1255; *Frasier v. Evans*, Case No. 21-57. In addition, he worked with a team of Holland & Hart lawyers for four years to litigate habeas corpus petitions on behalf of several Guantanamo Bay detainees in district and appellate courts, which involved obtaining a secret security clearance and working at a secured government facility. He was recognized nationally and locally for his efforts related to these representations. He also represents minors requiring assistance in proceedings involving judicial bypass of statutory parental notification requirements.

### CLIENT RESULTS

Representing commercial developer in dispute with neighboring landowner

involving trespass, nuisance, and interference with easement claims.

Representing lead investors of emerging growth company in civil litigation, bankruptcy proceeding, and related adversary claims involving executive misconduct.

Representing natural resources company in challenge to multi-billion dollar valuation of gathering system.

Representing medical services provider in multiple gross receipts tax refund cases.

Representing commercial developer in land use dispute involving interference, nuisance, and trespass claims.

Representing global manufacturing company in breach of contract claim related to adverse party's indemnification obligations.

Represented multiple retirees in claims of mismanagement and breaches of duty by retirement plan administrator.

Represented public utility in trespass and interference with easement claims.

Represented multiple motion picture exhibitors in use tax disputes related to consumption of digital goods against several municipalities and Colorado Department of Revenue.

Represented health care company in multimillion dollar breach of contract case.

Represented furniture and electronics company in sales tax assessment case related to inter-jurisdictional transfer of tax previously remitted to other municipalities.

Defended natural gas processor in pipeline valuation case involving alleged omission of appurtenances in property declarations before the Colorado Board of Assessment Appeals. Obtained complete defense judgment.

Prosecuted fraudulent transfer claims against multiple corporate and individual defendants in trial. Successfully obtained multimillion dollar award, including attorneys' fees. Upheld on appeal.

Defended premises liability and fraud lawsuit brought by former employees against industrial supply company. Case dismissed on Rule 12 motion. Upheld on appeal.

Defended fraud, fraudulent conveyance, and alter ego claims against real estate developer and custom homebuilder. Defeated all claims at trial.

Defended nonprofit neighborhood organization in breach of employment contract case. Defeated all claims at trial.

Obtained complete defense judgment in representation of automobile manufacturer in dealer termination challenge in AAA arbitration.

Defended Olympic athlete in challenge to team selection criteria and obtained favorable written determination in AAA arbitration.

Represented cable company in case brought by the Internal Revenue Service regarding federal income tax treatment of distribution and subsequent payment of multimillion dollar demand promissory note. Claims favorably resolved.

Defended engineering firm against allegations of federal and state antitrust violations. Claims dismissed on summary judgment.

Defended health care insurance company on alleged Section 2 Sherman Act violations. Claims favorably resolved.

Defended mining company in breach of contract and estoppel case before International Centre for Dispute Resolution. Claims favorably resolved.

Defended financial institution against negligence and conversion claims. Case dismissed on Rule 12 motion.v

Defeated Colorado Open Records Act request seeking disclosure of legislative work product in district court proceeding and on appeal.

Represented member of limited liability corporation in corporate dissolution proceeding. Client's interest favorably acquired.

Represented gas company in resolving business interruption claim for lost profits that coincided with economic uncertainties related to COVID-19 pandemic. Claims favorably resolved.

Represented victim investors in receivership proceeding and related government investigations involving widespread fraud and Ponzi scheme. Claims favorably resolved, with criminal indictments returned against adverse parties.

Represented ski area operator in defending claims related to on-mountain injuries. Claims favorably resolved.

Represented investors in receivership clawback action related to Ponzi scheme. Claims favorably resolved.

## **PUBLICATIONS**

"Colo. Ballot Measure Will Help Fix Property Tax Regime," *Law360*, 10/14/2020

## **SPEAKING ENGAGEMENTS**

"SALT Update," *TEI Webinar: Current Tax Developments & Legislation*, 09/29/2021

"Progressive Lawyering," *University of Denver Sturm College of Law*,

03/10/2021

"What Keeps You Up at Night? Practical Ethics for In-House Tax Professionals," *Tax Executives Institute, Denver Chapter*, December 9, 2020

## RECOGNITION

- *The Best Lawyers in America*®, Commercial Litigation, 2020-2025; Tax Law, 2022-2025
- Colorado Super Lawyers®, Business Litigation, 2013-2024
- Colorado Super Lawyers®, "Top 100 Lawyers," 2021-2023
- Colorado Super Lawyers® Rising Stars, 2009-2012
- *5280 Magazine* Top Lawyers, Commercial Litigation, 2016-2019
- Martindale-Hubbell®, AV Preeminent® Rating
- *Denver Business Journal*, Forty Under 40, 2011
- Sandra Day O'Connor Award for Professional Service, 2010
- *Law Week Colorado*, Pro Bono Leader of the Year, 2010
- ACLU Carle Whitehead Memorial Award, 2010

## PROFESSIONAL AND CIVIC AFFILIATIONS

- American Bar Association, Litigation Section, Member
- Colorado and Denver Bar Associations, Tax and Litigation Sections, Member
- Colorado Bar Foundation, Fellow
- Faculty of Federal Advocates, Member
- Doyle's Inn of Court, Member
- Legal Aid Foundation of Colorado, Former Board of Trustees Member
- Public Education & Business Coalition, Former Board Member
- Wesleyan Lawyers Association, Member
- Denver Bar Association, Court Mediation Services, Volunteer Mediator