

TIMMS R. FOWLER

**The Fowler Law Firm, LLC, 155 East Boardwalk Dr., Ste. 300, Fort Collins, CO 80525
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Academics:

J.D., University of Denver College of Law 1986
Harold H. Widney Memorial Scholarship (based on merit after the first year)
Internships:
Environmental Defense Fund
Denver Office of the Public Defender

B.A., University of Colorado 1978
Double Major: History and Biology
Regent Scholarship

Judicial Clerkship:

The Honorable Morris B. Hoffman, Denver District Court; 1992 - 1993:
Assisted with motions practice and the Court's 280-case civil docket; the Court adjudicated several high profile cases including *Asarco v. Escamilla*; observed numerous trials.

Bar Admissions:

The Colorado Supreme Court, 1986
The United States Court of Appeals for the Tenth Circuit, 1986
The United State District Court for the District of Colorado, 1986

Plaintiff-Oriented Civil Litigation:

The Fowler Law Firm, LLC: Fort Collins; January 2006 – Present:
Civil litigation with a personal injury focus
Insurance law and coverage disputes
Appeals: insurance coverage, uninsured motorist benefits, real property, municipal annexation, personal injury issues
Legal research and writing for other practitioners in trial courts throughout Colorado: civil litigation, annexation, personal injury issues, summary judgment, witness preclusion, evidence, and coverage.

Of Counsel to Trine & Metcalf, P.C.: Boulder; April 2006 - November 2010:
Products liability litigation in Colorado and New Mexico regarding toxic exposures, including asbestos.

Of Counsel to Leventhal, Brown & Puga, P.C.: Denver; Dec. 2003 – Dec. 2005:
Handled the firm's appellate practice; authored approximately 29 appeal briefs or petitions; provided motions-support for Jim Leventhal's and Natalie Brown's

personal injury and medical negligence caseload; filed approximately 177 briefs or motions in 2003-04; filed approximately 182 briefs or motions in 2004-05.

The Metier Law Firm: Fort Collins; December 1998 - September 2003:

Personal injury, insurance coverage, enhanced personal injury protection and under-insured motorist coverage cases.

Defense-Oriented Civil Litigation:

Downey, Rauch and Sleeman: Denver; 1993 - 1994:

Insurance defense: including automobile, medical malpractice, bad faith, insurance law, and coverage.

Younge and Hockensmith: Grand Junction; 1986 - 1989:

Defense of various insureds with emphasis on defense of governmental entities, insurance law, and insurance coverage.

Small-Firm General Practice:

The Law Office of Timms R. Fowler: Fort Collins; 1996 - 1998:

Land use, civil rights, personal injury, basic estate planning, probate, some domestic relations, and some appeals.

Hill and Hill: Fort Collins; 1994 - 1996:

A classical general practice with some land use, water law, commercial litigation, UCC, probate, personal injury, and workers' compensation.

The Law Office of Mark N. Williams: Grand Junction; Part-time, 1990 - 1991:

Civil litigation, some commercial work, and some real property.

Published Opinions:

Allstate Ins. Co. v. Moser, 600 F.3d 1297 (10th Cir. 2010) (affirming the United States District Court's opinion that the household exclusion limited recovery to \$25,000 under the Kansas Automobile Injury Reparations Act).

Bumbal v. Smith, 165 P.3d 844 (Colo. App. 2007) (district court properly ruled that the offer of settlement included attorney fees and costs and declined to award costs in addition to the settlement amount).

Expander v. Cramer, 903 P.2d 1171 (Colo. App. 1995) (district court properly dismissed complaint for failure to file certificate of review because claim was based upon lack of informed consent, rather than battery, so expert testimony was required).¹

¹While associated with Downey, Rauch and Sleeman, P.C., I substantially wrote the brief, but do not appear of record having moved to Fort Collins prior to submission of the brief.

Geren v. Coatney, 695 N.W.2d 43 (Iowa App. 2004) (Iowa statute of limitations borrowing Nebraska law, borrowed its medical negligence statute of limitations rather than wrongful death statute).

Meserole v. City of Aspen, 786 P.2d 456 (Colo. App. 1989) (governmental immunity was waived under Governmental Immunity Act regarding sidewalks).

Parry v. Kuhlmann, 169 P.3d 188 (Colo. App. 2007) (affirming district court's award of an expert witness's fee even though the amount was not claimed in the first bill of costs).

Renz v. Larimer County School Dist. Poudre R-1, 924 P.2d 1177 (Colo. App. 1996) (*res judicata* and law of the case did not preclude an ALJ from re-opening a workers' compensation award based upon a change in case law to offset Social Security benefits despite prior adjudication by the Court of Appeals that no such offset could be imposed).

Rudnick v. Ferguson, 179 P.3d 26 (Colo. App. 2007) (affirming trial court's decision that it did not err in dismissing Rudnicks' claim against a doctor who did not contribute to the GIA statutory damages cap of \$150,000 deposited into the court registry as he was entitled to the protection of the GIA).

Sereff v. Steedle, 148 P.3d 192, (Colo. App. 2005) (part-time faculty physician was a governmental employee under GIA, but the GIA cap of \$150,000 applied to each wrongful death claimant as a separately injured person rather than to decedent) (reversed by Colorado Supreme Court, *Steedle v. Sereff*, 167 P.3d 135 (Colo. 2007)).

Town of Erie v. Town of Frederick, __ P.3d __, 2010 WL 2306702 (Colo. App. 2010) (Frederick's annexations upheld on various grounds and Erie lacked standing on certain issue).

Trattler v. Citron, 2006 WL 2506741, No. 04CA2113 (Aug. 31, 2006) (briefed the issues underlying the unpublished opinion affirming trial court's order striking experts, which was later reversed by others in *Trattler v. Citron*, 182 P.3d 674 (Colo. 2008)).

Visser v. Mahan, 111 P.3d 575 (Colo. App. 2005) (governmental immunity notice was not untimely because agent with foreign power of attorney was not a legal representative and plaintiff was incapacitated).

Wallbank v. Rothenberg, 140 P.3d 177 (Colo. App. 2006) (affirming trial court's decision denying motion to exceed the statutory "soft-cap" on medical malpractice damages for child's future lost earnings).

Weaver v. Blake, 454 F.3d 1087 (10th Cir. 2006) (modification of pretrial order prohibiting defense witness from offering expert opinion was harmless and time limit on deliberations did not influence the integrity of the verdict).

Yeiser v. Ferrellgas, Inc., 214 P.3d 458 (Colo. App. 2008) (reversing in part the district court's ruling regarding the common law collateral source rule and setting off a portion of the homeowner's insurance proceeds); *cert. granted*, 2009 WL 2714014 (Colo. Aug. 31, 2009); *rev'd Ferrellgas, Inc. v. Yeiser*, 247 P.3d 1022 (Colo. Feb. 28, 2011).

In re Marriage of Zinke, 967 P.2d 210 (Colo. App. 1998) (district court lacked subject matter jurisdiction to modify child support orders from Montana under Uniform Interstate Family Support Act and the district court's order was vacated as void).

Unpublished Opinions -- since 2005:

Blakey v. Auto-Owners Ins. Co., Case No. 09CA2380; Case No. 11SC376 (Petition for Writ of Certiorari pending).

Employers Mutual Ins. Co. v. Orto, Case No. 09CA1384 (briefed, but settled before oral argument was set).

McWilliams v. Miller, Case No. 06CA2138 (opinion March 20, 2008).

Orto v. Shelter Ins. Co., Case No. 08CA2085 (opinion August 6, 2009).

Riebe v. Mountain States Mutual Cas. Co., Case No. 08CA1897 (opinion dated May 20, 2010 modified July 22, 2010); Case No. 2010SC629 (Petition for Writ of Certiorari pending).

SMT Investors v. Town of Frederick, Case No. 09CA0221 (opinion May 20, 2010).

Public Speaking:

CTLA Subrogation Seminar, Denver, March 18, 2011: "Subrogation in a Medical/Dental Context, Pursuant to The Health Care Availability Act (C.R.S. § 13-64-402)"

CTLA Blockbuster Seminar, Denver, February 2-3, 2006:
"The *Svendsen/Carlson* Dilemma" (regarding the then pending *Trattler v. Citron* case decided later by the Colorado Supreme Court, 182 P.3d 674 (Colo. 2008))

CBA, Continuing Legal Education, Fourth Annual Litigation Institute, October 2-3, 2004:
Moderator, "View from the State Court Bench: Motions Practice"

CTLA Convention, Auto Litigation Session, August 2004:
“Forcing UM/UIM Arbitration Based on Settlement of Underlying Claims and UM/UIM Coverage Provisions”

CTLA Blockbuster Seminar, January 29-30, 2004:
“UM Coverage, Umbrellas and Insurance Agent Duties”

CTLA Seminar, December 5, 2003:
“Colorado Law Update 2003 – Torts”

CTLA Convention, Vail, August 2003:
“The Spirituality of the Motions Practice”

CTLA Blockbuster Seminar, February 2002:
“Negligence Per Se A Silver Bullet”

CTLA Blockbuster Seminar, June 2001:
“A Commotions Practice vs. A Motions Practice”

Publications:

Fowler, *Bifurcating Typical Colorado Tort Actions: Perhaps, Perhaps Not*, TRIAL TALK, Aug./Sept. 2003, Vol. 52, Issue 5, pp. 14-18.

Fowler, *Repeal of the No-Fault Act, the Renaissance of Tort and the Rising Need for Underinsured Motorist Coverage*, TRIAL TALK June/July 2003, Vol. 52, Issue 4, pp. 26-30.

Fowler, Editor, *Three Things Not to Forget for Trial - 2005*, TRIAL TALK Feb./March 2005, Vol. 54, Issue 2, pp. 11-14.

Fowler and Leventhal, *Congratulations – You Just “Got Your Wings” Marketing in Ethical Airspace*, ATLA Summer Convention, Montreal, 2005 [reprinted with permission in TRIAL TALK Feb./March 2006, Vol. 55, Issue 2, pp. 9-13].

Fowler, Editor, *Three Things Not to Forget for Trial - 2006*, TRIAL TALK Feb./March 2006, Vol. 55, Issue 2, pp. 23-25.

Professional Affiliations:

Editor, *Evidence and Trial Tactics Section*, TRIAL TALK, CTLA: 2004 - 2005

Board Member, CTLA: 2003 - 2004

Member, CTLA: 1998 - Present

Member, CBA: affiliation with Larimer County Bar Association

Awards:

Department of the Interior's National Conservation Award,

Washington, D.C., 1990: Received the Department of Interior's highest civilian award for leadership as the Volunteer Coordinator of Kokopelli's Trail for bringing together numerous governmental agencies, private individuals, and businesses in Colorado and Utah to create Kokopelli's Trail.

Celebrate Colorado Award,

Governor's Office, 1990 for work on Kokopelli's Trail.

Appointments:

By Executive Order, Governor's Bicycle Advisory Board, 1990 - 1992.

Life Experiences:

Volunteer Coordinator and "Founder Award Recipient" for the Kokopelli's Trail Project:

Grand Junction - Moab, 1988 - 1989: The Bureau of Land Management and an *ad hoc* group of volunteers created the mountain-bike trail named for the Native American rock-art figure Kokopelli.

Founder and President of the Colorado Plateau Mountain Bike Trail Association:

Grand Junction, 1989 - 1991: Founded the non-profit corporation to carry on the Kokopelli Trail work. The Association joined forces with a group of mountain bikers from Montrose and assisted in creation of the Tabeguache Trail extending across the Uncompaghre Plateau from Montrose to Grand Junction.

Wildlands Firefighter with the Bureau of Land Management:

Grand Junction, part-time 1989 - 1990: Fought forest fires from South Carolina to California as a "ground pounder" and "engine slug."

Wildlife Biologist, 1978 - 1983: Working for public agencies and consulting firms, I assisted with studies of peregrine falcons, bald eagles, mule deer telemetry, and species inventories. I also volunteered at the Point Reyes Bird Observatory and the Farallon Islands Research Station.

President of the Colorado Field Ornithologists, 1980 - 1981: CFO is a non-profit ornithological society, and I organized two state conventions.