

Carmen N. Decker
10463 Park Meadows Drive, Suite 209
Littleton, CO 80124
(303) 226-1670
Email: carmen@hersheydecker.com

Experience

*July 2009 to
Present*

Hershey | Decker | Drake¹ *Shareholder (Jan. 2013)*

Litigation and Appeals: Represent various clients including individuals, corporations, health care facilities and professionals in Colorado County, District and Appellate Courts:

- Prepare pleadings
- Argue motions
- Obtain relief
- Negotiate settlement of claims
- Depose lay and expert witnesses
- Trial and arbitration representation
- Brief and argue appeals

Administrative Proceedings: Represent businesses and individuals in licensing, peer review, and regulatory matters before the following regulatory bodies:

- Colorado Civil Rights Division
- Colorado Department of Public Health and Environment
- Colorado Medical Board
- Board of Chiropractic Examiners
- Board of Nursing
- Board of Pharmacy
- Board of Veterinary Medicine
- DEA
- Department of Regulatory Agencies
- Equal Employment Opportunity Commission
- Hospital Peer Review
- Mental Health Licensing Section
- Office of Attorney General
- Office of Barber and Cosmetology
- Physical Therapy Licensure
- Real Estate Commission
- Adult and Child Protective Services

General Counsel: Provide general counsel to waste removal company, recycling facility and transfer station, large retail chains, small professional practices and various other businesses.

- Counsel clients about responding to and managing legal and employment

¹ Includes predecessor firms.

issues

- Draft, review, negotiate, and advise clients regarding contracts
- Draft policies and staff documents
- General litigation including premises liability and auto accident liability

September 2004 to
July 2009

Montgomery Little & McGrew, PC Greenwood Village, Colorado
Senior Associate

Specialized in the representation of businesses, health care, and licensed professionals and entities. Practice included general litigation and administrative matters with a focus in health law and representation of business clients, physicians, nurses, pharmacists, veterinarians, and attorneys in professional malpractice actions and administrative matters. Practice also included criminal defense, insurance defense, premises liability, employment matters, auto accident liability, and oil and gas cases and appellate work.

Education

August 2001 to
May 2004

University of Denver College of Law, Denver, Colorado

Juris Doctor, May 2004

Ranked 8th in class, top 5%

Order of St. Ives

AmJur Award for Constitutional Law and Employment Law (highest grade in class)

August 1996 to
May 2000

Colorado State University, Fort Collins, Colorado

BS in Psychology, May 2000

Emphasis in Cognitive Neuropsychology

Cum Laude

Phi Beta Kappa

Memberships

Colorado Bar Association

Denver Bar Association / Employment and Health Law Section

Douglas/Elbert Counties Bar Association

Honors

Colorado Super Lawyers 2015, 2016, 2017, 2018

Colorado Rising Star 2012, 2013, 2014

Opinions

Colorado Supreme Court

Colorado Medical Board v. McLaughlin, 2018SC330, certiorari granted Sept. 4, 2018, (Opinion pending.)

Representing a physician in appeal to determine whether Colorado Medical Board administrative investigative subpoena issued to a physician can have a lawfully authorized purpose when investigation was prompted by complaint from a separate agency under a policy that violated the Colorado Open Meetings Law and Administrative Procedure Act.

Boland v. Colorado Medical Board, 2018SC331, certiorari granted Sept. 4, 2018, (Opinion pending.)

Representing a physician in appeal to determine whether Colorado Medical Board administrative investigative subpoena issued to a physician can have a lawfully authorized purpose when investigation was prompted by complaint from a separate agency under a policy that violated the Colorado Open Meetings Law and Administrative Procedure Act.

Does v. Colo. Dept. of Public Health, 2018SC621, certiorari granted Jan. 14, 2019, (Opinion pending.)

Representing physicians in appeal challenging the referral of the physicians to the Colorado Medical Board for investigation by the Colorado Department of Public Health under secret policy, "Policy 2014-01" that petitioners argue violated the Colorado Administrative Procedure Act and Open Meetings Law.

Colorado Medical Board v. Stone, 18SC211, held in abeyance until resolution of 18SC330, 18SC331, 18SC621.

Colorado Medical Board v. Office of Administrative Courts, 333 P.3d 70 (Colo. June 23, 2014) (reversing an office of administrative court order allowing discovery of peer review records and holding that administrative proceedings were civil suits for purposes of the professional review statute.)

Colorado Court of Appeals

Colorado Medical Board v. McLaughlin, 425 P.3d 1187 (Colo. App. 2018) (reversing district court judgment enforcing an administrative subpoena issued by the Colorado Medical Board and holding the subpoena violated the Colorado Open Meetings Law and Administrative Procedure Act.)

Colorado Medical Board v Boland, Colorado Court of Appeals, 2018 COA 39, March 22, 2018, Decided Colorado Supreme Court certiorari granted by *Boland v. Colorado Medical Board*, 2018SC331. (Representing physician in appeal of administrative subpoena enforcement action filed by the Colorado Medical Board.)

Does v. Colo. Dept. of Public Health, Colorado Court of Appeals, 2016COA106, Colorado Supreme Court certiorari granted by *Does v. Colo. Dept. of Public Health*, 2018SC331 (Representing physicians in action challenging the referral of the physicians to the Colorado Medical Board for investigation by the Colorado Department of Public Health under secret policy, "Policy 2014-01" for violations of the Colorado Administrative Procedure Act and Open Meetings Law.)

Parr v. Wolk, Court of Appeals No. 16CA1653 (February 15, 2018), Decided (Unpublished) (Represented two physicians who had been summarily suspended by the Medical Board for alleged violation of a secret “Rule of 75.”)

Oster v. Baack v. Horizon, 351 P.3d 546 (Colo. App. April 9, 2015) (finding CRCP 60 is the appropriate vehicle for setting aside an award of costs and fees when the underlying basis for the award is overturned and a separate appeal of such fees is unnecessary.)

McCormick v. Exempla Healthcare et al, Colorado Court of Appeals, 08CA1409, March 26, 2009, Decided, (Unpublished.)

10th Circuit Court of Appeals

Ajaj v. United States, No. 07-1073, United States Court of Appeals for the Tenth Circuit, 293 Fed. Appx. 575; 2008 U.S. App. LEXIS 19786, September 15, 2008, Filed, (Unpublished Opinion) Supreme Court certiorari denied by *Ajaj v. United States*, 2009 U.S. LEXIS 1942 (U.S., Mar. 9, 2009).

Lynch v. Bulman, No. 06-1018, United States Court of Appeals for the Tenth Circuit, 2007 U.S. App. LEXIS 24210, October 15, 2007, Filed, (Unpublished Opinion), US Supreme Court certiorari denied by *Lynch v. Bulman*, 2008 U.S. LEXIS 3245 (U.S., Apr. 14, 2008).

Harrison v. Gilbert, No. 07-1273, , United States Court of Appeals for the Tenth Circuit, 259 Fed. Appx. 161; 2007 U.S. App. LEXIS 29809, December 26, 2007, Filed, (Unpublished Opinion).

Federal District Court

Ryskin v. Banner Health, Inc., Civil Action No. 09-cv-01864-MEH-KMT, United States District Court of the District of Colorado, 2010 U.S. Dist. LEXIS 79060, July 9, 2010, Decided, July 9, 2010, Filed Summary judgment granted, in part, summary judgment denied, in part by *Ryskin v. Banner Health, Inc.*, 2010 U.S. Dist. LEXIS 118810 (D. Colo., Nov. 9, 2010).

Ajaj v. United States, Civil Action No. 03-cv-01959-MSK-KLM United States District Court of the District of Colorado, 2009 U.S. Dist. LEXIS 15949, February 17, 2009, Decided.

Garrett v. Land West Ventures, Inc., Civil Action No. 06-cv-01358-PSF-CBS, United States District Court of the District of Colorado, 2007 U.S. Dist. LEXIS 52252, July 18, 2007, Decided, July 19, 2007, Filed

Schupper v. Cole, Colorado Court of Appeals No.: 05CA2363, El Paso County District Court No. 05CV322, April 26, 2007, Decided (Unpublished Opinion)

Trials, Administrative Hearings, Oral Argument and Arbitrations***

September 17, 2019 *Does v. Colo. Dept. of Public Health*, 2018SC621, certiorari granted Jan. 14, 2019, (Opinion pending.)

Oral Argument before the Colorado Supreme Court on behalf of nine physicians challenging the Court of Appeals opinion that the Colorado Department of Public Health and Environment is not a state public body for purposes of Colorado Open Meetings Law and that the referral of the physicians to the Colorado Medical Board for investigation by the Colorado Department of Public Health under secret policy, "Policy 2014-01" violated the Colorado Administrative Procedure Act and Open Meetings Law.

September 17, 2019 *Colorado Medical Board v. McLaughlin*, 2018SC330, certiorari granted Sept. 4, 2018, (Opinion pending.)

Oral Argument before the Colorado Supreme Court on behalf of a physician related to whether a Colorado Medical Board administrative investigative subpoena issued to a physician can have a lawfully authorized purpose when investigation was prompted by complaint from a separate agency under a policy that violated the Colorado Open Meetings Law and Administrative Procedure Act.

September 17, 2019 *Boland v. Colorado Medical Board*, 2018SC331, certiorari granted Sept. 4, 2018, (Opinion pending.)

Oral Argument before the Colorado Supreme Court on behalf of a physician related to whether a Colorado Medical Board administrative investigative subpoena issued to a physician can have a lawfully authorized purpose when investigation was prompted by complaint from a separate agency under a policy that violated the Colorado Open Meetings Law and Administrative Procedure Act.

May 29, 2018 *John Does v. Colorado Department of Public Health and Environment*, (Case No. 2016CA2011)

Oral Argument before a Division of the Colorado Court of Appeals on behalf of *John Doe* physicians regarding the applicability of Colorado Open Meetings Law and the Administrative Procedures Act to the Department of Public Health and Environment.

February 7, 2018 *Stone, et al v Wolk in his official capacity as Executive Director of the Colorado Department of Public Health and Environment and Colorado Medical Board*, (Case No. 2016CA1653)

Oral Argument before a Division of the Colorado Court of Appeals on behalf of physicians regarding the District Court's jurisdiction to consider a claim pursuant to the Colorado Open Meetings Law related to a summary suspension by the Colorado Medical Board.

January 23, 2018

Colorado Medical Board v. McLaughlin, (Case No. 2017CA73)

Oral argument before a Division of the Colorado Court of Appeals on behalf of the physician regarding a Colorado Medical Board subpoena enforcement action.

October 31, 2017

Colorado Medical Board v. Boland, (Case No. 2016CA1269)

Oral argument before a Division of the Colorado Court of Appeals on behalf of the physician regarding a Colorado Medical Board subpoena enforcement action.

September 29, 2016

John Does 1-9 v. Colorado Department of Public Health and Environment, et al.
Denver District Court (Case No. 2015CV030902)

Served as first chair attorney representing 7 physicians at summary judgment oral argument hearing regarding the CDPHE's alleged violation of the Administrative Procedures Act and Colorado Open Meetings Law. The Court granted the physicians motion for summary judgment and obtained a successful ruling where the Court enjoined the CDPHE and awarded the physicians their attorneys' fees and costs.

July 22, 2016

Dunlap et al v. Colorado Medical Board et al

Denver District Court (Case No. 16CV032630)

Represented two physicians who had been summarily suspended by the Medical Board for alleged violation of a secret "Rule of 75." Successfully obtained a temporary restraining order against the Medical Board.

July 1, 2014

In Re Marriage of Roberts

Denver District Court (14DR30055)

Permanent Orders Hearing. Served as first chair supervisory attorney for Hearing.

June 18-25, 2012

Board of Chiropractic Examiners v. Brandon Credeur, DC
Office of Administrative Courts (CH-2011-007)

Licensing action seeking revocation

Assisted with pre-trial preparations and served as hearing counsel. Final Agency Action finding only documentation deficiencies and resolving 34 counts with a Letter of Admonition

Jan. 24-27, 2011

Heidi Oster, MD and Horizon v. Judy Baack, MD

Douglas County District Court
Breach of contract
Assisted with pre-trial preparations. Bench trial Plaintiff prevailed on certain claims and client Dr. Baack prevailing on certain claims. Appeal reversed findings in favor of Plaintiff in favor of Dr. Baack

Dec. 6-10, 2010 *Michael Ryskin, MD v. Sterling Regional MedCenter; Shirley Campbell, MD; Joseph Bonell, MD; John Elliff, MD; Michelle Joy; and Thomas Soper, MD*

U.S. District Court
Wrongful termination and professional review
Assisted with pre-trial preparations. Jury verdict in favor of all defendants including clients Joseph Bonell, MD and John Elliff, MD

May 2010 *West Agency v National Western Stock Show*
District Court of City and County of Denver

Assisted with pre-trial preparations and served as lead trial counsel.
Breach of Contract Action
Jury verdict in favor of client

March 2009 *Home Instead v Gossett*
Denver District Court

Served as lead hearing counsel
Hearing for Preliminary Injunction regarding Non-Compete in Employment Contract

***Small claims court and county court trials not listed.

Presentations *Mental Health & the Law*
March 14, 2006 Denver, Colorado

Guide to Deciphering Medical Records
May 26, 2011 Denver, Colorado

Publications *The Hospitalist*
Alternative Access (March 2011)

Civic Activity *2011-Present*
Colorado Lawyers for Colorado Veterans
2004-2009
Federal Advocacy Assignment/Pro Bono Federal Prisoner's Case

Other

Acknowledgments

2012 Rising Star

2013 Rising Star

2014 Rising Star

2015 Super Lawyer

2016 Super Lawyer

2017 Super Lawyer

2018 Super Lawyer