

Brian is a tenacious and respected trial and appellate lawyer who thrives in high stakes matters.

As chair of the firm's Government and Internal Investigations practice group, Brian vigorously defends clients who face federal and state investigations and conducts nimble internal investigations to guide organizations through crises and other difficult situations. Brian has broad experience on all sides of investigations, including in health care, higher education, and other regulated areas, and in litigation under the False Claims Act and similar fraud statutes.

Brian draws on investigative and litigation skills he first developed as Senior Litigation Counsel in the United States Attorney's Office for the Southern District of New York in Manhattan. His clients in private practice have ranged from individuals and not-for-profits to Fortune 500 companies.

Representative Experience

Selected HSE Representations

- Obtained criminal and civil declinations, as well as settlements, from the U.S. Department of Justice and New York Attorney General in fraud investigations, including for clients in health care, education, and financial services sectors.
- Represented businesses, not-for-profits, municipalities, boards, audit committees, executives, and professionals in investigations by state and federal enforcement agencies such as DOJ, FBI, IRS, SEC, and FTC.
- Successfully defeated a motion to dismiss in a putative antitrust class action against Uber's CEO in *Meyer v. Kalanick*, 174 F. Supp. 3d 817 (S.D.N.Y. 2016).
- As Circuit-appointed pro bono counsel, secured heavily cited victories in *Troma Entertainment v. Centennial Pictures*, 729 F.3d 215 (2d Cir. 2013), which limited personal jurisdiction in copyright suits, and in *Williams v. Priatno*, 829 F.3d 118 (2d Cir. 2016), which effectively struck prison rules. And successfully reversed the termination of a prison-reform consent decree in *Irvin v. Harris*, ___ F.3d __ (2d Cir. 2019).
- Advised health care clients in criminal and civil investigations, audits, disclosures, and disputes, including 340B drug discount program issues.

Selected Government Representations

- Led investigation and filed suit in *United States v. Deutsche Bank AG*, 11 Civ. 2967 (S.D.N.Y.), a trailblazing quarter-billion dollar False Claims Act case targeting reckless lending practices precipitating the housing crisis.
- Won dismissal of Federal Tort Claims Act suit filed by victims of the 2001 anthrax attacks in *Gilvar v. United States*, 09 Civ. 8941 (S.D.N.Y.).
- Secured Office's first admissions of wrongdoing in a civil fraud settlement, *United States v. Noble Jewelry*, 08 Civ. 7826 (S.D.N.Y.), a customs case.
- Protected national security information in *Amnesty International USA v. CIA*, 07 Civ. 5435 (S.D.N.Y.), a Freedom of Information Act suit.



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Admissions

New York
 District of Columbia
 U.S. Courts of Appeals for the
 Second Circuit, Fifth Circuit, and
 Federal Circuit
 U.S. District Courts for the
 Southern, Eastern, Western, and
 Northern Districts of New York
 U.S. District Court for the District of
 Colorado

Clerkship

Law Clerk, Hon. Richard C. Wesley,
 U.S. Court of Appeals for the
 Second Circuit

Education

University of Virginia School of Law,
 J.D.
 Dartmouth College, A.B.

- Settled False Claims Act *qui tam* and health care investigation in *United States v. North Shore-Long Island Jewish Hospital*, 06 Civ. 1114 (S.D.N.Y.).
- Secured dismissal of tax refund claims by the estate of Muppets-creator James M. Henson in *Gottesman v. United States*, 05 Civ. 8212 (S.D.N.Y.).
- Managed groundbreaking RICO consent decree in *United States v. International Brotherhood of Teamsters*, 88 Civ. 4486 (S.D.N.Y.), working with court-appointed officers and FBI organized crime special agents.

Professional and Civic Affiliations

- Advisory Board Member, Federal Bar Association, Qui Tam Section
- Panelist, Second Circuit Pro Bono Panel
- Member, Federal Bar Council and Board of Editors, *Federal Bar Council Quarterly*

Honors and Awards

- Recipient, “Rising Stars” Award, *New York Law Journal*, 2018
- Selected by his peers for inclusion in *The Best Lawyers in America*® in the field of Commercial Litigation, Litigation – Health Care, Litigation - Regulatory Enforcement (SEC, Telecom, Energy), and Qui Tam Law
- AV Preeminent® Peer Review Rated by Martindale-Hubbell
- Selected to the Upstate New York Super Lawyers Rising Stars list, 2013-2018

Publications

- Co-Author, “Judge Lawrence Joseph Vilardo: A Buffalonian and Lawyer’s Lawyer,” *Federal Bar Council Quarterly*, Mar/Apr/May 2020
- Author, “Chatting with Judge Sannes,” *Federal Bar Council Quarterly*, Sept/Oct/Nov 2018
- Author, “Speaking with Judge Frank Paul Geraci, Jr.,” *Federal Bar Council Quarterly*, Mar/Apr/May 2016
- Author, “Elizabeth A. Wolford in the Western District of New York,” *Federal Bar Council Quarterly*, Mar/Apr/May 2016
- Author, Expert Analysis, “[Strategic Use of Rule 502\(d\) in Civil and Criminal Proceedings](#),” *New York Law Journal*, February 2016
- Author, Expert Analysis, “[Health Care Overpayments and Reverse False Claims](#),” *New York Law Journal*, September 2015, *quoted by* U.S. Department of Justice, [Press Release](#), August 2016

News

- Featured in, “Federal Court Opens Door for Nursing Homes to Challenge Medicare, Medicaid Rules,” *McKnight’s Long-Term Care News*, April 30, 2021
- Quoted in, “2nd Circ. Revives Challenge to Nursing Home Inspection Rule,” *Law360*, April 29, 2021
- Quoted in, “2nd Circuit Revives Nursing Homes’ Challenge to CMS Compliance Rule,” *Reuters*, April 27, 2021
- Quoted in, “Health Care Orgs Can Take Medicaid Rules Fight Straight to Federal Court, 2nd Circuit Rules,” *New York Law Journal*, April 27, 2021
- Quoted in, “Uber Won Price-Fixing Arbitration Out of ‘Fear,’ Plaintiff Says,” *GCR USA*, May 27, 2020
- Featured in, *Titans of Industry*, special supplement of *The American Lawyer*, 2019
- Quoted in, “Rakoff Can Weigh Uber Rider Arbitration Info: 2nd Cir.,” *Law360*, August 2017
- Quoted in, “Uber Riders Asks 2nd Cir. To Tweak Price-Fix Ruling,” *Law360*, August 2017
- Quoted in, “Rakoff Rips Uber Detective’s Shady Tactics in Price-Fixing Suit,” *Law360*, July 2016
- Quoted in, “Rakoff Rips Uber Detective’s Shady Tactics in Price-Fixing Suit,” *Law360*, July 2016

- Quoted in, "[U.S. Pursues New Tack in VW Emissions Probe](#)," *Wall Street Journal*, March 2016
- Profiled in, "[Making Banks Pay](#)," *Corporate Counsel*, May 2014
- Quoted in, "[Justice Department Taking Larger Role on SEC's Turf](#)," *Washington Post* November 2013
- Quoted in, "[Bank of America Verdict Spotlights U.S. Focus on Civil Cases](#)," *Reuters*, October 2013

