

# Brian D. Schneider

PARTNER

Brian approaches every engagement with an emphasis on the client's business objectives.



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## Industries

Health Care  
Life Sciences  
Nonprofit

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## Practices

Complex Litigation  
ERISA  
Government Enforcement & White Collar

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## Education

Vanderbilt University Law School JD,  
2007  
Tufts University BA, 2000

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## Offices

Washington, DC

## Phone

202.715.8590

## Email

brian.schneider@arentfox.com

As a former management consultant, Brian partners with clients to craft their legal strategies—whether navigating dispute resolution and litigation, negotiating tactical contract terms, or implementing compliance course corrections.

For emerging and established trade associations, foundations, and technology firms, Brian works alongside clients' leadership, boards, and staff as outside general counsel to manage their legal needs in line with their business plans. He advises on antitrust, governance, contracting, intellectual property, litigation, and day-to-day operational matters, leveraging the breadth and depth of Arent Fox's legal team to deliver a full range of legal guidance. Brian delivers custom solutions for clients in diverse industries, including auto parts, education, finance, health care, real estate, and retail.

Brian is an experienced litigator, ready to handle disputes in the court room and at the negotiating table. Brian works with his clients to litigate contract-breach actions, pursue payments from commercial payers, and respond to government investigations. He litigates disputes involving high-stake contract disputes, complex federal and state regulatory schemes, reimbursement disputes with Medicare and commercial payers, class actions, and international arbitrations. Brian has extensive experience coordinating clients' strategies in response to civil actions stemming from the antitrust laws, contract claims, and the False Claims Act and the Anti-Kickback Statute, with an emphasis on balancing dispute resolution with business objectives.

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## Client Matters

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### Trade Associations and Related Entities

- Serves as outside general counsel to trade associations, foundations, multiple-listing service companies, and technology firms, counseling them on antitrust compliance, governance, membership, contracts, trademark strategy, and risk management.

Manages vendor and partnership relationships by crafting and negotiating custom contracts that protect business interests.

- Partners with leadership and staff to develop practical solutions to address risks in advance.
- Leverages experience to manage workflows that align with clients' service and budget needs.

### **Antitrust Counseling**

- Advises manufacturers, technology and service firms, and trade associations on collaborative conduct and pricing strategy.
- Serves as antitrust counsel at industry meetings, advising participants in advance of, and during, meetings to facilitate discussion and engagement.
- Crafts resale price and related marketing strategies.
- Pursues antitrust and false advertising claims.

### **Litigation**

- Aggressively litigates breach of contract actions and other disputes in court and through international arbitrations.
- Pursues millions of dollars in health care provider reimbursements from commercial benefit plans. These representations include pursuing ERISA-based remedies as well as state-law contract and common law claims, in addition to defending against overpayment and recoupment claims.
- Defended a radiology practice alleged to have conspired with a benefit management company in violation of the Sherman Act in *Eastside Medical Radiology, et al* (S.D.N.Y.).
- Represented pharmaceutical companies in False Claims Act litigation in *United States, ex rel Conrad v. Actavis Mid-Atlantic, et al* (D. Mass.) and related litigation in Louisiana state court.
- Represented several pharmaceutical manufacturers in connection with Average Wholesale Price (AWP) litigation throughout the country.
- Obtained complete reversals of the revocations of Medicare Supplier Numbers for medical device (DMEPOS) suppliers through appeals with the National Supplier Clearinghouse.
- Represents several manufacturers in ongoing mass action litigation in D.C. Superior Court.
- Pursues on a pro bono basis the civil rights claims of a class of District of Columbia nursing facility residents in *Brown, et al. v. D.C.* (D.D.C.).
- Manages investigations and litigation in response to False Claims Act subpoenas issued by the Department of Justice related to:
  - A leading medical equipment manufacturer and its relationship with hospitals and durable medical equipment suppliers;
  - A distributor of medical supplies and its relationship with manufacturers;
  - A therapy services provider's Medicare billing; and
  - A non-profit's relationship with manufacturers and distributors.

### **Publications, Presentations & Recognitions**

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Brian is a frequent writer and speaker on compliance and litigation matters.

- Named a DC Rising Star by *Super Lawyers Magazine* (2014, 2015, 2016, 2017)

Named to the *Legal 500* of top DC health care lawyers (2013)

- Co-presented a PLI webcast on "Emerging Risk Management and Litigation Issues for Health Care Organizations: What Keeps Us Up at Night?" (2015)
- Co-editor of *Health Care Litigation and Risk Management Answer Book 2015*, a comprehensive and definitive book for health care industry leaders focused on risk management and litigation. The *Answer Book* covers 22 chapters spanning the industry's strategic challenges, including government regulation and investigations, the False Claims Act, the Stark law, the Anti-Kickback Statute, HIPAA, and EMTALA, as well as major areas of private litigation risk, such as employment litigation and insurer/provider disputes. The *Answer Book* also provides analysis of compliance strategies to avoid investigations, fines, and litigation. Brian co-authored chapters on government investigations, False Claims Act litigation, health care antitrust litigation, and pharmaceutical pricing fraud.
- Presented workshops on resale price maintenance (RPM) and minimum advertised price (MAP) strategies at the Automotive Aftermarket Suppliers Association's Special Summit on the topic, "Minimum Advertised Price: Legal and Strategic Options," and Automotive Sales Council's annual fall meeting.
- Moderated a panel at The Food and Drug Law Institute's Enforcement, Litigation and Compliance Conference discussing developments in False Claims Act litigation, exclusion risks, and related defense strategies.
- Co-authored articles on False Claims Act litigation and court decisions of importance to the health care sector.
- Presenter and author of articles impacting the auto parts, credit counseling, and college store industries, including an article featured in *Lexology* titled, "Justice Department Continues to Pursue Auto Parts Price-Fixing Indictments ;" an article featured in *Law360* titled, "Creditors May Collaborate To Avoid Borrower Default;" an article featured in the National Association of College Stores' *Campus Marketplace e-Newsletter* titled, "Supreme Court Opens Market for Importation and Sale of Foreign-Made Textbooks;" and a presentation to the National Foundation for Credit Counseling's membership on the topic, "When Does a Nonprofit Risk Being Treated Like a For-Profit?"

## Previous Work

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Brian previously was a management consultant, providing pharmaceutical clients with a range of strategic guidance involving pricing, marketing initiatives, acquisition analysis, and long-term research and development planning.

During law school, Brian interned with the Honorable Thomas A. Wiseman of the US District Court for the Middle District of Tennessee and with the Commercial Litigation Branch of the US Department of Justice.

## Life Beyond the Law

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Brian spends his free time with his wife corralling his two young daughters. Whenever he can, he cheers on his hometown Red Sox, and his new home team, the Nationals.

## Bar Admissions

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District of Columbia  
Maryland

## Court Admissions

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US District Court, District of Maryland  
US District Court, District of Columbia