

# Randall A. Brater

PARTNER

Randy is a litigator at Arent Fox who represents companies in a variety of industries on matters involving Investigations/False Claims Act, Municipal Finance, and Trademark litigation.



## Industries

Fashion & Retail Law  
Health Care  
Life Sciences  
Media & Entertainment

## Practices

Complex Litigation  
Investigations  
Trademark

## Education

Vanderbilt University Law School JD, 2000  
Cornell University BA, with distinction in all subjects, 1997

## Offices

Washington, DC

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Randy routinely litigates high-stakes matters in state and federal courts, including preliminary injunctions, motions practice, jury and bench trials, arbitrations, and mediation.

Randy often handles matters related to investigations and the False Claims Act, municipal bond finance, and trademark litigation. Randy also has represented agricultural chemical manufacturers in numerous data compensation disputes arising under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), environmental actions under CERCLA, employment, trade secret and unfair competition actions, and a variety of tort and contract actions.

## Municipal Finance

Randy's work in municipal finance includes representation of municipal bond trustees, and insurers of general obligation and revenue project bonds and guarantees in bankruptcy proceedings, including the Detroit (Chapter 9) and Puerto Rico (PROMESA Title III) bankruptcies. Randy also has experience analyzing state and municipal laws regarding bond issuance, the authority to issue bonds, and debt limits. He also has advised clients regarding various different bond structures, the property rights of bondholders, the flow of funds under different bonds structures, and potential equitable and statutory remedies. Randy also has assisted with complex workouts regarding distressed bonds.

## Investigations and the False Claims Act

Randy represents a number of clients in the health care, pharmaceutical, and construction industries in qui tam False Claims Act actions in federal court, as well as related matters in state court. He has also conducted complex internal investigations and advises clients on their rights, responsibilities, and liabilities prior to potential litigation. Randy assists clients in responding to state and federal government subpoenas and civil investigative demands (CIDs).

In the Investigations and False Claims Act area, Randy has represented health care providers, hospitals, pharmaceutical manufacturers, medical device manufacturers, vaccine manufacturers, patient assistance programs, and construction companies.

## Trademark Litigation

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In the trademark and unfair competition area, Randy has litigated, tried, and assisted in the settlement of Lanham Act disputes in federal court, as well as matters before the Trademark Trial & Appeal Board and the Federal Circuit, including claims arising out of the titles of television programs, trademark and trade dress infringement for fashion and food clients, and claims related to the publicity rights of famous personalities. Randy also serves as part of the team that services the intellectual property portfolio for a number of media and entertainment, food, and fashion clients, providing litigation counsel in trademark, unfair competition, advertising, publicity rights matters, and related licensing issues.

Reported cases in which Randy has participated include:

- Representation of a pharmaceutical company in a False Claims Act case in *United States ex rel. Borzilleri v. Abbvie Inc., et al.*, 2019 WL 3203000 (S.D.N.Y. 2019);
- Representation of construction companies in a False Claims Act case involving alleged violations of the Davis Bacon Act. *United States ex rel. Smith v. Clark/Smoot/Russell, et al.*, 796 F.3d 424 (4th Cir. 2015);
- Confirmation of an arbitration award against a non-resident defendant in *Ventureforth Holdings LLC v. Joseph*, 80 F. Supp. 3d 147 (D.D.C. 2015);
- Represented the manufacturer, distributor and seller of culinary gourmet sauces and stocks in a breach of contract action against a French manufacturer of sauces for failure to deliver a product that fully complied with USDA rules and regulations. *More Than Gourmet, Inc. v. Christian Potier, S.A.*, 2014 WL 4245961 (N.D. Ohio 2014);
- Dismissal of a Telephone Consumer Protection Act action in *Wolfkiel v. Intersections Insurance Services, Inc.*, 303 F.R.D. 287 (N.D. Ill. 2014);
- Representation of a pharmaceutical company in False Claims Act litigation in *United States ex rel. Conrad v. Actavis Mid-Atlantic, et al.*, 2013 WL 682740 (D. Mass 2013);
- Part of the trial team that litigated a contract counterclaim in a bench trial that resulted in an award for the client and a jury trial on the same matter that resulted in a verdict in the client's favor. Both were affirmed on appeal. *Contract Materials Processing, Inc. v. KataLeuna GmbH Catalysts*, 303 F.Supp.2d 612 (D. Md. 2003); 462 Fed. Appx. 266 (4th Cir. 2012).
- Defense of a claim for breach of a non-solicitation clause against the manager of a real estate office in a jury trial and the granting of an award of attorney's fees under a fee-shifting provision in the agreement. *Weichert Co. of Maryland, Inc. v. Dorothy Crago Faust*, 989 A.2d 1227 (Md.App. 2010); *Weichert Co. of Maryland, Inc. v. Dorothy Crago Faust*, 419 Md. 306 (2011);
- Grant of a default judgment in a trademark infringement action in *Einstein v. Baby Einstein Co. LLC*, 2009 WL 10670676 (C.D. Cal. 2009)
- Defense of a trade secret and corporate raiding claim in a jury trial in federal court. *Galaxy Computer Services, Inc. v. Baker*, 325 B.R. 544 (E.D. Va. 2005); 2005 WL 2171454 (E.D. Va. Sept. 02, 2005);
- Part of the litigation team that defended a trademark infringement and dilution action on behalf of a major media and entertainment company in a jury trial. The court granted partial dismissal of the action at both the motion to dismiss and summary judgment phases. *Monster Cable Products, Inc. v. Discovery Communications, Inc.*, 2004 WL 2445348 (N.D. Cal. 2004);
- Defense of a CERCLA claim in which the court granted summary judgment and made a determination that the client was an innocent landowner under the statute. *1325 "G" Street Associates, LP v. Rockwood Pigments NA, Inc.*, 2004 WL 2191709 (D. Md. 2004); 235 F.Supp.2d 458 (D. Md. 2002).

## Professional Activities

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Randy is also committed to pro bono activities. In 2010, he was awarded the Klepper Prize for Volunteer Excellence for his work with the Legal Aid Society of the District of Columbia. In 2006, Randy was awarded the Albert E. Arent Pro Bono Award for his work with Legal Aid. Randy currently serves as a member of the Board of Trustees for Legal Aid and is also the Vice-Chair of the Board of Travelers Aid International.

Randy serves as a member of the firm's Professional Conduct Committee and serves as the leader of the firm's Project Management Task Force that coordinates the efforts of other partners in multiple practice areas to implement best practices, while designing tools that can be used across various legal practices and disciplines.

## Previous Work

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Randy joined the firm in 2001 after working at another law firm in Los Angeles.

## Publications, Presentations & Recognitions

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- Co-author, "Is DOJ Changing Its Approach to Enforcement? What Regulated Entities Need to Know," 2018
- "The Civil False Claims Act: A Primer for Career and Other Proprietary Colleges," Arent Fox webinar; November 2008
- Co-author, "Oral Arguments Set for Major False Claims Act Case Pending Before Supreme Court," *AHLA Weekly*, April 8, 2016

## Bar Admissions

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California

District of Columbia

## Court Admissions

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Supreme Court of the United States

US District Court, District of Columbia

US District Court, District of Maryland

US District Court, Central District of California

US District Court, Eastern District of California

US District Court, Northern District of California

US District Court, Eastern District of Michigan

US Court of Appeals, District of Columbia Circuit

US Court of Appeals for the Federal Circuit

US Court of Appeals, 1st Circuit

US Court of Appeals, 4th Circuit

US Court of Appeals, 6th Circuit

US Court of Appeals, 9th Circuit

US Court of Appeals, 10th Circuit