



Brian S. McGrath

Partner

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Brian McGrath counsels companies on a wide range of complex commercial legal issues. The co-chair of the firm's Consumer Financial Services Practice Group, he has helped clients navigate litigation involving financial services, intellectual property, antitrust, and white collar criminal investigations throughout his career. An outside-of-the-box thinker, Brian partners with his clients to provide them with simple, tailored solutions for their legal problems.

In recent years, Brian has leveraged his broad experience to focus on serving clients in the financial services industry. He works with a number of financial institutions—including mortgage loan servicers—regarding lender liability and consumer protection statutes. He also handles complaints concerning the Truth in Lending Act (TILA) and Real Estate Settlement Procedures Act (RESPA), as well as regulatory issues involving Consumer Financial Protection Bureau (CFPB) enforcement actions.

Brian began his career with a prominent international law firm, representing clients in high-stakes commercial litigation matters in a variety of business sectors. In addition to handling landmark biotechnology patent litigation, Brian defended the interests of professional athletes in sports labor law matters involving the NFL and NBA Player's Associations. He also previously served as a Special Assistant District Attorney in the Kings County District Attorney's Office.

Before joining Hinshaw, Brian bolstered his financial services industry knowledge and litigation experience in the New York office of a New Orleans-based firm. In addition to championing the diversity and inclusion efforts at his former firm, Brian was the Managing Partner for the New York office.

Professional Affiliations

- Leadership Council on Legal Diversity, Class of 2018 Fellows
 - Northeast Regional Lead, 2023 – 2024
- New York City Bar Association
 - LGBT Rights Committee, Secretary, 2007 – 2010
- New York State Bar Association

Practices

Commercial Litigation
Consumer and Class Action Defense
Consumer Financial Services
Mortgage Servicing and Lender Litigation
Regulatory and Compliance Counseling
White Collar Defense & Internal Investigations

Education

J.D., *magna cum laude*,
University at Buffalo Law School, 2000

B.A., The State University of
New York at Geneseo, 1996

Admissions

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



Honors & Awards

- Professional
 - Named a *Crain's New York* 2023 Notable LGBTQIA+ Leader
 - Recognized as a 2022 *Crain's New York* Notable Diverse Leader in Law
 - Distinguished Service Award, Boy Scouts of America – Order of the Arrow, 1998
- Academic
 - University at Buffalo School of Law
 - Order of Barristers

Representative Matters

- **Mortgage Servicing & Lender Litigation**
 - Represented a leading New York mortgage servicer trade organization in an *amicus* filing to the New York Court of Appeals to hear and settle a matter of great significance regarding how the statute of limitations is calculated for mortgage foreclosure actions.
 - Defended large financial services institutions in a federal action seeking relief from purported violations of a pooling and servicing agreement for mortgage backed securities. Obtained a dismissal of all charges in the district court, and the ruling was affirmed by the Second Circuit.
- **Patent Litigation**
 - Represented a large biotechnology company in connection with landmark patent litigations. The United States Supreme Court ultimately ruled in the client's favor and established that an extant licensee to a patent has Article III standing to challenge a patent.
- **Arbitration**
 - Obtained successful decisions on behalf of a major pharmaceutical provider, entitling it to full payment. Represented client in a series of arbitrations throughout the country relating to improper withholding of co-payments pursuant to the Medicare Part D program.

Presentations

- Co-Presenter, "Key State Cases and Fair Lending," Mortgage Bankers Association, Legal Issues and Regulatory Compliance Conference, San Diego, California, May 5, 2024
- Co-Presenter, "Best Practices for Commercial and Employment Arbitration Efficiency," American Arbitration Association, CLE Webinar, April 25, 2024
- Panelist, "Best Practices & Risks of Servicing Loans in New York," 2023 Annual Convention "Building Bridges: Shaping the Future of Mortgage Banking in New York," New York Mortgage Bankers Association, Verona, New York, October 5, 2023
- Panelist, "Boosting the Role of Belonging in Leadership Development," From Day One, Live 2023: Manhattan, New York, New York, September 26, 2023
- Panelist, "Anti-Engel Proposed Legislation (S.5473D/A.7737B) and S.2143/A.2428," New York State Mortgage Bankers Association Annual Advocacy Conference, Virtual Event, March 14, 2022
- Panelist, "Stump the Panel! Pandemic/Post-Pandemic Loss Mitigation," MBA's Legal Issues & Regulatory Compliance Conference 2021, Virtual Event, May 25, 2021
- Moderator, "The Pitfalls of Foreclosure Delay: Statute of Limitations Defense and Property Preservation," Hinshaw's Peer-to-Peer Financial Services Forum: The Frontlines of Mortgage Servicing, Virtual Event, March 30, 2021
- "Effective Mortgage Litigation Strategies," 2019 Consumer Finance Legal Conference, New Orleans, Louisiana, October 16, 2019



- "Recent Developments in Debt Collection Litigation and Enforcement: Identifying and Avoiding the Latest Risks," ACI's 31st National Forum on Consumer Finance Class Actions and Government Enforcement, Chicago, Illinois, July 23, 2019
- "Hotbed Statute of Limitations Jurisdictions: Drawing the Line on Date of Breach, Foreclosure Nuances, and Default Notices," ACI's 25th National Forum on Residential Mortgage Regulatory Enforcement & Litigation, Dallas, Texas, October 23, 2018
- "The Evolving Statute of Limitations Landscape in CA, FL, TX and NY Mortgage Litigation," 2018 Consumer Finance Legal Conference, New Orleans, Louisiana, October 18, 2018
- "Developing Jurisprudence on Statute of Limitations in New York, California and Florida, and Impact on Mortgage Litigation," 2017 Consumer Finance Legal Conference, New Orleans, Louisiana, October 13, 2017
- "Addressing Statute of Limitations Challenges Relative to Default, Loan Acceleration, and Foreclosure Challenges," ACI's 24th National Forum on Residential Mortgage Regulatory Enforcement & Litigation, Dallas, Texas, September 26, 2017

Publications

- Co-Author, "Hand Delivery Service of Process Challenges in a Socially Distant World," *New York Law Journal*, May 15, 2020
- "The Rise of Statute of Limitations Challenges in New York Mortgage Foreclosure Actions," *The Review of Banking & Financial Services*, February 2019

Personal

Brian grew up on a small family farm in upstate New York, which he now owns with his husband. Brian loves traveling, theater, and a good roller coaster. Brian is an avid dog-lover, especially dachshunds with their lovable, loud, and in-your-face personalities.

Community/Civic Activities

- Development Authority of the North Country, Board of Directors
- SUNY Oswego College Council, Board of Directors