



Brian D. Koosed

Partner

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OVERVIEW

Brian Koosed is a partner in the firm's Washington, D.C., and New York offices who represents corporations, banks and other financial institutions, and high net-worth individuals in a broad range of commercial disputes.

Brian has extensive experience with the retail manufacturing, and financial services sectors, particularly in the context of adversary proceedings arising out of complex Chapter 11 bankruptcies. He also has extensive experience with shareholder and M&A "deal" disputes, including: (i) shareholder derivative suits challenging public company M&A transactions; (ii) suits asserting entitlement to escrowed portions of a purchase price pursuant to post-closing indemnity or other obligations; (iii) suits challenging whether pre-closing conditions have been met; and (iv) suits challenging whether post-closing earn-outs have been triggered or are otherwise owed.

Finally, Brian also has experience defending and prosecuting breach of contract and business tort claims and defending class action disputes, litigating civil disputes arising under the False Claims Act and RICO, and with the firm's appellate, insurance coverage, and e-discovery analysis and technology (e-DAT) groups generally.

Brian currently serves as the pro bono partner for the firm's Washington, D.C. office and is the Co-Chair of the Montgomery County (MD) Victim Services Advisory Board. He enjoys chasing after his two young kids when he's not busy working on billable and pro bono matters.

SPEAKING ENGAGEMENTS

- Presenter, *How Safe Are the 'Safe Harbors'? A Look at the Development of Bankruptcy Code Section 546(e) and New Questions After the Supreme Court's Decision in Merit Management*, National Conference of Bankruptcy Judges Webinar (March 2019) (prior version of this webinar was presented as a K&L Gates Webinar on July 11, 2018).

EDUCATION

- J.D., Georgetown University Law Center, 2005 (*cum laude*, *American Criminal Law Review*)
- B.A., Miami University (Ohio), 2002 (*summa cum laude*, *Phi Beta Kappa*)

ADMISSIONS

- Bar of District of Columbia
- Bar of Maryland
- Bar of New York
- United States Court of Appeals for the Second Circuit
- United States District Court for the District of Colorado
- United States District Court for the District of Columbia
- United States District Court for the District of Maryland
- United States District Court for the Eastern District of New York
- United States District Court for the Southern District of New York

THOUGHT LEADERSHIP *POWERED BY HUB*

- 28 March 2022 , In the Weeds: Why Arbitration May Be the Key to Preserving Enforcement of Cannabis M&A and VC Contracts
- 28 October 2021, Lawyer and Witness? Not so fast. Chancery Warns Trial Counsel That His Plan To Testify Flouts Ethical Rules
- 22 October 2021, Don't Sit on Your Legal Rights, Even with Your Family – Master in Chancery Recommends Dismissal of Former Member's Claims Against His Family LLC, Based on Laches
- 13 May 2020, COVID-19: Key Issues for Swap and Repo Participants in a Difficult Market
- 21 April 2020, COVID-19: Crisis Management for End-Users of Swaps and Repos: Key Issues in Responding to Margin Calls and Early Termination Notices
- 13 August 2019, Returning to Our Roots: Industrial Hemp's Comeback in the DMV
- 4 April 2019, Supreme Court Wades Into Circuit Split, Endorses Broader View of "Scheme Liability" for Disseminating False Statements
- 7 December 2018, Can a Plaintiff Re-Label and Re-File a Securities Fraud Claim?
- July 2018, How Safe Are the "Safe Harbors"?
- 12 May 2017, U.S. Supreme Court to Review Scope of "Settlement Payment Defense" for Bankruptcy Clawback Suits

OTHER PUBLICATIONS

Brian has authored or co-authored numerous articles and treatises addressing topics impacting bankruptcy litigation, class actions, and the litigation and dispute resolution processes generally. His most recent publications include:

- “Arbitration As An Enforcement Solution In Cannabis Contracts,” *Law360*, 31 March 2022
- Lead author, *Extra!! Extra!! Click All About It? Modernizing Public Notice Laws in a Digital Age*, University of Virginia Journal of Social Policy & the Law (April 2019).
- “Annie, Get Your Gun, But Please Don't Bring It to the Depo,” *Texas Lawyer*, 31 January 2019
- Lead author, *Limiting the Scope of Discovery Through Contract*, *Law360*, 4 October 2018 (discussing how sophisticated parties can use contractual provisions to limit the scope of discovery in any future litigation under their contracts).
- Lead author, *CPLR 3213 – An Unheralded Procedural Remedy*, *New York Law Journal* (10 May 2018) (examining how lenders can use the ability to file a summary judgment motion at the outset of a dispute to their advantage to enforce notes, guaranties, and other loan documents in New York state court).
- Lead author, *The Stakes Are High In FTI Consulting v. Merit Management*, *Law360* (18 May 2017) (analyzing bankruptcy case before the U.S. Supreme Court concerning the scope of the Bankruptcy Code's safe harbor for securities settlement payments).
- Lead author, *Disregarding the Corporate Form: Why Judges, Not Juries, Should Decide the Quiddets and Quillets of Veil Piercing*, *New York University Journal of Law and Business*, Vol. 13 (Fall 2016).
- Sole author, Nevada chapter of the 50-state treatise *State Class Actions: Practice and Procedure*, Wolters Kluwer, 2009-2014.

NEWS & EVENTS

- August 2020, K&L Gates Lawyers Provide Insights on Impact of COVID-19 Across Various Industries

MEDIA MENTIONS

- Mentioned, “EU Says €291M Arbitration Award Violates European Law,” *Law360*, 3 June 2022

AREAS OF FOCUS

- Commercial Disputes
- Appellate Litigation
- Class Action Litigation Defense

- Financial Institutions and Services Litigation
- Insurance Recovery and Counseling
- Restructuring and Insolvency
- Securities and Transactional Litigation

REPRESENTATIVE EXPERIENCE

- Representing a medical device manufacturer in New York litigation arising out of alleged oral agreements to grant stock options.
- Obtained a favorable settlement in a JAMS arbitration on behalf of a water heater and boiler supplier against a contractor that made false and defamatory claims on social media.
- Representing a Chinese manufacturer and investment fund seeking to recoup monies improperly diverted by business partner as part of a years-long accounting fraud scheme in both AAA arbitrations and on issues of first impression in U.S. Bankruptcy Court.
- Representing a prominent financial institution in New York federal court in defending a challenge to its form contract documentation used to purchase millions of dollars worth of bankruptcy claims from creditors in high-profile Chapter 11 bankruptcies.
- Representing one of the world's premier luxury retailers in multi-jurisdictional litigation in state and federal courts in New York, Alabama, and elsewhere alleging breach of contract and fraud arising out of certain allegedly improper business practices.
- Representing foreign sovereign in arbitration confirmation proceedings in U.S. District Court arising out of an ICSID Award.
- Representing a major manufacturer in litigation in New York state court against a private equity firm arising out of the private equity firm's failure to close on its purchase of one of the manufacturer's lines of business pursuant to an asset sale agreement.
- Representing various financial institutions in adversary proceedings in New York Bankruptcy Court seeking to "claw back" funds paid to shareholders of public companies in connection with the public companies' leveraged buyouts, including application of Bankruptcy Code "safe harbors" as defenses to such "claw back" claims.
- Representing a prominent financial institution in a multibillion dollar lawsuit in New York Bankruptcy Court alleging various tort and bankruptcy (fraudulent transfer and preference) claims arising out of the Chapter 11 bankruptcy of a major telecommunications company.