

## BRIAN J. FISCHER, Partner

*Brian J. Fischer is a litigator in our Complex Commercial Litigation Practice Group. His expansive practice has been built advocating for clients in a wide range of commercial and regulatory disputes in courts at all levels throughout the country and in arbitral settings, on both the defense and plaintiff side.*

Fortune 500 and other major companies, hedge funds and individuals seek Mr. Fischer's representation on business and financial disputes concerning contractual rights, fiduciary obligations, trade secret protection, employment agreement covenants and regulatory matters. Over the years, Mr. Fischer has counseled clients on disputes concerning complex financial products, transaction agreements, joint ventures and financial frauds. Mr. Fischer also has significant experience representing global aerospace, engineering and defense firms in conflicts with foreign sovereigns and government contractors, among others.

*The Legal 500 U.S.* has called out Mr. Fischer as one of the "many renowned partners" in Jenner & Block's New York office, where "commercial litigation is one of its greatest strengths." The same publication noted that Mr. Fischer is one of the New York office's "key figures."

Mr. Fischer is a co-chair of the firm's Alumni and In-House Opportunities Committee. He previously served for a number of years as a co-chair of the firm's Pro Bono Committee and the Pro Bono Executive Committee. Named the 2008 winner of the Albert E. Jenner, Jr. Pro Bono Award, he has a vibrant civil and criminal pro bono practice. Mr. Fischer has successfully represented immigrants seeking political asylum, individuals affected by Superstorm Sandy, an inmate whose death sentence was vacated, and a prominent journalist advancing a FOIA claim against the US Drug Enforcement Administration, among others. In another pro bono matter, Mr. Fischer recently secured a reversal of a conviction for an individual found to have committed various environmental law violations on grounds of improper exclusion of evidence and prosecutorial misconduct.

Representative current and past engagements of Mr. Fischer's include:

- Won summary judgment dismissing all claims against an individual angel investor and not-for-profit consortium of angel investors defending a suit claiming misappropriation of trade secrets and ideas and breach of fiduciary duty over the origins of the popular website Pinterest.com. Plaintiffs had sought tens of millions of dollars in damages. Argued and won appeal unanimously affirming summary judgment. Won expedited summary judgment in related case obtaining indemnity/advancement of legal fees from ex-company for individual client
- Secured a nearly \$40 million judgment on behalf of a Fortune 50 company in contract and intellectual property dispute with former business venture partner; judgment upheld by the Third Circuit Court of Appeals
- Served as national counsel to a group of consumer installment loan lenders and loan servicers facing civil litigation and regulatory enforcement actions



## BRIAN J. FISCHER Partner

### NEW YORK

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### PRACTICE GROUPS

Antitrust and Competition Law  
Complex Commercial Litigation  
Financial Services Litigation  
Litigation  
Markets and Trading  
Trade Secrets and Restrictive Covenants

### EDUCATION

Harvard Law School, JD, 2002; *magna cum laude*; Symposium Director and Editor, *Harvard Journal on Legislation*

State University of New York - Binghamton, BA, 1999; *summa cum laude*; Phi Beta Kappa

### ADMISSIONS

New York, 2003

### COURT ADMISSIONS

US District Court, Southern District of New York, 2004

US District Court, Eastern District of New York, 2005

US Court of Appeals, Second Circuit, 2011

US Court of Appeals, Third Circuit, 2014

US Court of Appeals, Eleventh Circuit, 2014

US District Court, Eastern District of Wisconsin, 2014

US Court of Appeals, Fourth Circuit, 2015

### JUDICIAL CLERKSHIPS

Hon. Naomi Reice Buchwald, US District Court, Southern District of New York, 2003 - 2004

throughout the country, including a first-of-its-kind lawsuit brought by the Consumer Financial Protection Bureau (CFPB)

- Represented in emergency injunction proceedings a cannabis company fending off a right-of-first-refusal claim from a shareholder of a company targeted for acquisition. Successful result enabled the client's acquisition to proceed, and facilitated an eventual IPO of the client on a foreign exchange
- Represented foreign mining company whose tender offer to a target company's shareholders was challenged by a third-party claiming the transaction violated its right-of-first-offer. Resulted in successful completion of the challenged transaction
- Represented a business jet manufacturer defending against antitrust suit relating to pilot training programs, and prosecuting counterclaims for trade secret misappropriation and copyright infringement
- Represent a pharmaceutical company defending against breach of contract suit brought by ex-shareholders of acquired company claiming they are owed tens of millions of dollars in post-acquisition milestone payments
- Counseled hedge fund in connection with a variety of complex bondholder rights issues
- Argued successful appeal as lead attorney in Florida state court case challenging the legal propriety of temporary injunction requiring client group to make a pre-judgment escrow of millions of dollars
- Represented hedge fund in multiple successful trade secret theft actions against ex-employees
- Counseled a global engineering and aerospace firm in multiple conflicts with aircraft manufacturer over parts and other contract issues
- Tried an arbitration on behalf of a public company against an international financial institution over auction-rate securities
- Represented a foreign company defending against contract suit relating to the supply of military helicopters to the Iraqi military
- Served as special litigation counsel to a group of unsecured creditor hedge funds in a bankruptcy dispute at a multi-day bench trial
- Represented a major asset manager in claims concerning the early termination of interest rate swaps.
- Defended a manufacturing company in an international arbitration against a claim for over \$50 million in damages from delay in delivery
- Represented a global engineering and aerospace firm in a conflict over parts supplied for a major line of aircraft
- Represented a hedge fund in a contract dispute with an international bank
- Served as litigation counsel to a group of investors bringing a contract dispute against numerous large banks and insurance companies
- Counseled an international law firm in matters related to an ex-partner's alleged role in a Ponzi scheme
- Counseled a bank in a state court dispute over CDO rights
- Counseled a Fortune 500 defense contractor in a dispute with a foreign sovereign related to modifications made to a head-of-state aircraft
- Counseled a Fortune 500 defense contractor in a dispute with a foreign sovereign related to an offsets agreement

- Represented a mortgage banker in a fraud and breach of contract suit arising out of the purchase and sale of mortgage assets for securitization purposes
- Defended an individual and companies prosecuted criminally in connection with alleged misconduct related to the United Nations' Oil-for-Food Program
- Counseled the trustee of a bankrupt fund in a well-publicized dispute with its prime broker
- Represented an officer of a public company investigated for stock option backdating
- Defended a Big Four accounting firm against a significant professional malpractice suit of a former client
- Counseled a special committee of public company's Board of Directors conducting an internal investigation into potential accounting improprieties
- Defeated class certification efforts on behalf of a foreign electronics manufacturer facing securities fraud allegations
- Represented a book publisher in a post-acquisition purchase price adjustment arbitration
- Defended an international media/telecommunications company facing class action securities fraud allegations
- Represented a foreign medical device manufacturer in its breach of contract and trade secret misappropriation lawsuit against a former business partner company

Mr. Fischer also devotes significant efforts to pro bono matters. Current and past pro bono engagements include:

- Won reversal of client's conviction for violation of various environmental laws based on improper exclusion of evidence and prosecutorial misconduct at trial
- Won summary judgment and related appeal on behalf of journalist seeking information from the DEA under FOIA
- Obtained political asylum from federal immigration court for a West African immigrant
- Obtained political asylum from federal immigration court for a Jamaican immigrant
- Drafted a federal court amicus brief on behalf of a constitutional rights organization in support of criminal defendant claiming speedy trial right violations
- Defended an individual convicted of drug charges at his federal court sentencing
- Drafted a state court amicus brief on behalf of various ethics, criminal defense and public interest institutions in support of a public defender convicted of contempt of court, and arguing on behalf of the amici at oral argument
- Represented an Alabama inmate whose death sentence was vacated
- Counseled an after-school program provider on a variety of matters
- Defended a community development organization in a suit brought in federal court
- Represented an individual in a dispute with debt collectors

## Awards

- Jenner & Block  
Albert E. Jenner, Jr. Pro Bono Award - 2008
- *Legal 500*  
Dispute Resolution - General commercial Disputes - 2016

## Community

- Harvard Law School Association of New York City  
Board Member

## Publications

- Co-Author, Client Alert: An Update on the State of Litigation Under COVID-19, April 20, 2020
- Co-Author, New York Courts to Resume Pending Nonessential Matters Virtually, April 10, 2020
- Co-Author, Client Alert: The State of Litigation Under COVID-19, April 1, 2020
- Co-Author, Client Alert: Prepare for Disruption: An Update on Commercial Litigation in New York Courts, March 26, 2020
- Co-Author, Pinterest Illuminates Key Lessons for Litigating Trade Secret Claims: *NYSBA Bright Ideas*, May 13, 2019
- Co-Author, "Litigating Idea Misappropriation Claims Under New York Law," *New York Law Journal*, May 7, 2018
- Co-Author, "Clearing Up Franchise Distribution Agreements at 6th Circ.," *Law360*, August 7, 2017
- Co-Author, "Parallel Regulatory and Civil Actions: A Dozen Tips from the Front Lines," *Corporate Counsel*, June 6, 2016
- Co-Author, "Early Returns on Civil Procedure Amendments," *New York Law Journal*, May 10, 2016
- Co-Author, Client Alert: New York Court of Appeals Reaffirms Broad Applicability of Federal Arbitration Act and Finds Rare Arbitration Waiver, December 17, 2015
- Client Alert: After Thirty Years of Uncertainty, New York State's Highest Court Clarifies the Standard for Obtaining Discovery from a Nonparty, April 16, 2014
- Co-Author, "E-Discovery Do's and Don'ts of 'Pension Committee,'" *Law.com*, February 5, 2010
- Client Alert: Do's and Don'ts for E-Discovery: New Sanctions Opinion Offers Guidance for Litigants, January 22, 2010
- "Recent Decision Expands Use of Rule 17 Subpoena," *New York Law Journal*, Vol. 238 No. 28, August 9, 2007

## Speaking Engagements

- Moderator, "Business Development: Insights and Tips From In-House Pros," Harvard Law School Association of New York City, June 18, 2019
- "Avoiding and Handling Disputes in Cross-Border Contracts," Managing Risk and Litigation, *The Lawyer*, December 05, 2017

- “What In-House Counsel Need to Know About Trade Secret Litigation,” Association of Corporate Counsel of New York, October 24, 2017
- Panelist, “Avoiding and Handling Disputes in Cross-Border Contracts,” Managing Risk and Litigation, The Lawyer, London, November 30, 2016
- “The Art and Science of Creating a Successful Joint Venture,” Association of Corporate Counsel of New York, September 28, 2016