



Steve Brody

Partner

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Steve Brody is an accomplished trial lawyer who handles a wide variety of complex, aggregated litigation, with a primary focus on mass torts, product liability, class actions, government investigations, and appeals. Steve chairs the firmwide Product Liability and Mass Torts Practice, and leads the practice's Drug and Medical Device subgroup. He also works frequently with attorneys in the firm's Consumer Class Actions, White Collar Defense and Corporate Investigations, and Appellate Practice Groups.

Steve works with clients beyond the near-term victory in a single dispute and toward the achievement of systemic changes that benefit clients' businesses well into the future. Steve has defended class actions and state attorney general cases involving pharmaceutical marketing, consumer fraud, state Medicaid reimbursement, health insurance plan benefits, preferred provider agreements, and 401(k) fees and retirement plan investment selection. At the federal appellate level, he has recently handled appeals in the Fourth, Eighth, Tenth, Eleventh and DC Circuits, and state appellate courts in Arkansas, Louisiana, New Jersey, Texas, Virginia, and West Virginia.

Before joining O'Melveny, Steve was the Acting Director of the Tobacco Litigation Team at the US Department of Justice. In that role, and in his prior role as the team's Deputy Director, Steve led a team of 35 Justice Department lawyers through four years of discovery on three continents and a nine-month civil RICO trial against major cigarette manufacturers in one of the largest civil cases ever brought by the Department of Justice. During the course of the litigation, Steve not only led the government's prosecution, but also represented the interests of almost 20

Admissions

Bar Admissions

District of Columbia
Virginia

Court Admissions

US District Court for District of Columbia
US Court of Appeals, District of Columbia, Seventh, Eighth, Ninth, and Tenth Circuits
US Supreme Court

Education

Washington & Lee University, J.D., 1994
Williams College, B.A., political economy, 1990

executive branch agencies. The case resulted in a 1,653-page opinion from the district court awarding judgment for the United States against all defendants. The judgment was upheld on appeal. Steve's work on the tobacco case has been described in several journal articles and books, including Harvard medical historian Allan Brandt's "The Cigarette Century" (Basic Books 2007) and "Bad Acts: The Racketeering Case Against the Tobacco Industry" (American Public Health Assn. 2012).

Steve is a member of the faculty for the National Trial Advocacy College at the University of Virginia School of Law, one of the nation's premier trial advocacy programs for practicing lawyers. He is also a frequent speaker on state Attorney General investigations and litigation and product liability issues.

Steve serves on the Board of Trustees of the Legal Aid Society of Washington, DC, and previously served on the Board of Directors for the Washington Lawyers Committee for Civil Rights and Urban Affairs. He is a member of the International Association of Defense Counsel and the Defense Research Institute.

Experience

- Obtained appellate reversal and dismissal of US\$1.2 billion Medicaid fraud judgment and reversal and remand of US\$11.4 million unfair trade practice judgment against pharmaceutical manufacturer in action brought by the Arkansas Attorney General
- Prevailed on appeal from \$330 million judgment in Medicaid fraud action by the Louisiana Attorney General, winning reversal and entry of judgment in favor of pharmaceutical manufacturer in the Louisiana Supreme Court
- Defended a US\$74 million constructive fraudulent conveyance action for a hospital and health systems operator in the US Bankruptcy Court for the District of Columbia in a seven-week bench trial, securing a full defense judgment on all claims that was upheld on appeal to the district court
- Obtained reversal of US\$4.5 million consumer fraud judgment against a pharmaceutical manufacturer in a state court action brought by the West Virginia Attorney General
- Represented major pharmaceutical manufacturers against Medicaid reimbursement, fraud and unfair trade practices claims brought by numerous State Attorneys General
- Coordinated a multi-firm defense effort for a major pharmaceutical manufacturer against claims for reimbursement of prescription drug payments brought by almost 200 third-party payers in state and federal court
- Represented medical device manufacturers in multi-state Attorney General investigations
- Won reversal of a federal district court remand order on behalf of an over-the-counter manufacturer in an important decision from the 8th Circuit on the scope of CAFA jurisdiction
- Obtained order striking class claims before any discovery in case alleging violations of Missouri Merchandising Practices Act by over-the-counter manufacturer
- Secured dismissal of class actions against retirement services providers in ERISA fiduciary litigation challenging the reasonableness of 401(k) plan fee structures
- Defeated certification of a purported nationwide class action brought by provider alleging illegitimate appropriation of discounted reimbursement by a major health insurance carrier through preferred provider network
- Obtained dismissal of nationwide class action against a large Medicare Advantage contractor over alleged misclassification of Medicare Part B and Part D drugs

- Secured an order setting aside a death sentence in favor of life in prison based on findings of Brady violations by prosecutors after a two-day evidentiary hearing in pro bono representation of capital defendant

Professional Activities

Speaker

- International Association of Defense Counsel Mid-Year Meeting (2015); ABA Environmental, Mass Torts & Products Liability Litigation Committees' Joint CLE Seminar (2015)
- ACI Drug and Medical Device Conference (2014)
- HarrisMartin's Mass Tort Litigation Conference with Judge Marina Corodemus (Ret.) (2013, 2014)
- PhRMA Law Section Annual Meeting (2013)
- ACI 8th Advanced Summit on Off-Label Communications (2012)
- ACI Expert Guide to Advertising, eMarketing & Promotions for the Pharmaceutical Industry (2011)
- ACI 7th National Forum on Off-Label Communications (2010)
- "Defense Perspectives on Attorney General Pharmaceutical Claims," LexisNexis/HB Litigation Conferences (2008, 2009)
- "Ethics & Discovery," Practising Law Institute (2007, 2009-2015 (Chair))

Honors & Awards

- Named a "Trailblazer" by *National Law Journal* for Health Care | Life Science (2020)
- Named a Litigation Star (2017-2018), Local Litigation Star (2017-2020), and National Practice Area Star (2019-2020) for Product Liability by *Benchmark Litigation*
- Recommended by *The Legal 500 US* for Dispute Resolution - Product Liability, Mass Tort and Class Action (2016-2020) and General Commercial Disputes (2020)
- "Life Sciences Star" for Products Liability Litigation and White-Collar/Government Investigations by *LMG Life Sciences* (2012-2019)
- Washington DC Super Lawyer for Civil Litigation Defense (2013), Class Actions and Mass Torts (2014)