



## 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 is Co-Chair of the firm's 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 Supreme Court and Appellate Practice Groups, and is Co-Chair of the firm's Attorney General Investigations and Litigation Practice.

Steve works to advance clients' business priorities through industry-shaping victories in high-profile litigation while simultaneously protecting clients' financial and reputational interests with sophisticated media strategies, government and investor relations, and overall crisis management. Steve has defended mass torts, class actions and state attorney general cases involving pharmaceutical and medical device promotion, consumer fraud, false claims, state Medicaid reimbursement, health insurance plan benefits, and preferred provider agreements, among other issues. At the federal appellate level, he has recently handled appeals in the Fourth, Sixth, Seventh, Eighth, Ninth, Tenth, Eleventh and DC Circuits, and at the state level in Arkansas, California, Louisiana, Mississippi, Pennsylvania, New Jersey, South Carolina, 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

### Admissions

#### *Bar Admissions*

District of Columbia  
Virginia

#### *Court Admissions*

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

### Education

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

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 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

- In a seven-week televised trial garnering national media attention, defended against the State of Oklahoma's claims in the first case to go to trial against an opioid manufacturer
- Obtained appellate reversal and dismissal of US\$1.2 billion Medicaid fraud 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
- 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
- Obtained dismissal of nationwide Average Wholesale Price class action against pharmaceutical manufacturer
- 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 dismissal of class action against governing body for college athletics alleging failure to secure integrity of academic instruction offered to intercollegiate athletes
- Obtained 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

- Panelist, “8th Annual Meeting,” Government Investigations & Civil Litigation Institute (November 7-9, 2022)
- 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

- Recommended by *The Legal 500 US* for Healthcare: Life Sciences (2022)
- Recognized by *Chambers USA* for Product Liability & Mass Torts (2021-2022)
- Named a Life Sciences “Trailblazer” by *The National Law Journal* (2020)
- Named a Litigation Star (2017-2018), Local Litigation Star (2017-2020, 2023), and National Practice Area Star (2019-2020, 2023) for Product Liability by *Benchmark Litigation*
- Recommended by *The Legal 500 US* for Dispute Resolution - Product Liability, Mass Tort and Class Action (2016-2022) and General Commercial Disputes (2020-2021)
- “Life Sciences Star” for Products Liability Litigation and White-Collar/Government Investigations by *LMG Life Sciences* (2012-2020)
- Washington DC Super Lawyer for Civil Litigation Defense (2013), Class Actions and Mass Torts (2014-2020)