



Biggie, Brian R.

Position: Partner

Contact

Phone: (716) 313-2195

Fax: (646) 350-1901

Email: bbiggie@gerberciano.com

Mailing Address

P.O. Box 1060, Buffalo, New York 14201

Location

Buffalo, New York

Practice Areas

- [Appellate Advocacy](#)
- [Business Law](#)
- [Construction Law](#)
- [Employment and Labor Law](#)
- [General Litigation](#)
- [Insurance Solutions](#)
- [Professional Liability](#)
- [Risk Reduction & Loss Avoidance](#)

Admissions

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



Biography

Brian focuses his practice on complex insurance coverage disputes with significant emphasis on litigation. Brian leads the firm's insurance coverage trial team. He successfully tried a \$4 million insurance coverage claim in the U.S. District Court for the Western District of New York. Brian proved to the jury that the plaintiff's claims were fraudulent in every respect and the jury ultimately sustained the insurer's coverage denial. Recently, he successfully tried a Superstorm Sandy case in state court in Brooklyn, New York. There, he convinced a jury that the plaintiff's damages, alleged to be in excess of \$1 million dollars, were the result of water, and not wind.

Both highlight what clients already know about Brian, that he can victoriously try a case regardless of venue, jurisdiction or geography.

Brian has represented and advised multi-national insurers on a range of issues, including priority of coverage; underwriting protocols; professional liability coverages; first-party loss; third-party coverage; life, health, and disability; damages and bad faith. His trial achievements are only surpassed by his appellate triumphs. Brian has prepared and argued appeals across New York State. His litigation skills result in insurance clients seeking his representation in mediations and arbitrations across the United States.

Brian also has significant experience defending businesses, municipalities and individuals against various tort claims, including New York's onerous Labor Law statutes. He has experience in representing businesses in commercial disputes. Brian counsels professionals with respect to risk avoidance. He also steps in to defend these same professionals in the event a claim is made against them. He developed and edited his prior firm's monthly professional liability publication.

Brian is a member of the [Defense Research Institute](#) (DRI) and the [Erie County Bar Association](#). He has been active in Insurance & Risk Management Services and Professional Liability Committees with USLAW Network, Inc. He is a frequent author on topics related to his areas of practice and has presented on insurance coverage issues and trends across the United States and internationally. Recently, he conducted claims training at Lloyd's of London. He presented at the In-tAP 2013 Spring Meeting in Munich, Germany on run-off solutions in the United States.

Brian previously served as Board President of the [Buffalo Alliance for Education](#). There he led an effort to build a strategic relationship between the community, businesses and schools in order to enhance and enrich student achievement in Western New York. Brian is the founder and president of the [Little Match Girl Foundation](#), a nonprofit organization that focuses on helping children in need by collecting and providing them with school supplies, essential seasonal items, holiday gifts, and other donations in collaboration with their schools and other community organizations.

When Brian is not chasing after his two young children, he is an amateur carpenter and beekeeper.



Education

- Buffalo State College, 1998
- Antonin Scalia Law School – George Mason University, 2003

Honors

- Upstate New York Super Lawyers, 2013-2017, 2020-2026
- Best Lawyers In America, 2021-2026, Insurance Law
- Business First's 40 Under 40, 2015
- Recipient of the Commitment to Education Award from the Buffalo Alliance for Education, 2006 and 2016

Professional Leadership

- Member, Defense Research Institute
- Chair, Insurance and Risk Management Program – US Law Network, April 2016
- Member, New York State Bar Association
- Member, Erie County Bar Association

Representative Matters

Prendergast v. Pacific Insurance Company Ltd.

Successfully tried and defended claim for \$4 million in coverage premised upon the alleged theft of plaintiff's sports memorabilia collection. After a jury trial, the jury sustained the insurer's denial rejecting plaintiff's allegations as to the scope and value of the collection.



Vinbaytel v. Scottsdale Insurance Company

Successfully tried and defended claim for coverage under a homeowner's policy for property damage caused by Superstorm Sandy. The plaintiff claimed that the damage to his oceanside home was the result of wind and not water. After a jury trial, the jury concluded all of plaintiff's damages were caused by water and therefore, excluded under the policy.

Albert Frassetto Enterprises v. Hartford Fire Insurance Company

Won reversal of the trial court's decision denying defendant's motion for summary judgment. The Appellate Division, Fourth Department concluded the Suit Limitation provision applied to plaintiff's property damage and lost rents claims and dismissed plaintiff's action in its entirety.

Blair v. Allstate Indemnity Company

The Appellate Division, Fourth Department upheld the award of summary judgment to the defendant insurer. The court held that plaintiff could not establish that the claimed damages were the result of a sudden and unexpected event.

United States of America ex rel. Dr. Kent Takemoto v. ACE Ltd. et. al. and United States of America ex. rel. J. Michael Hayes v. Allstate Ins. Co., et. al.

Represented various insurers as part of joint defense group defending two separate *qui tam* actions alleging an industry wide scheme to avoid mandatory payments under the Medicare Secondary Payer Act.

Furmansky v. Mutual of Omaha

Successfully obtained Judgment on the Administrative Record upholding a determination of plan eligibility based upon the active work requirement and the language contained within a severance agreement.

Shahram v. Allstate Ins. Co.

Obtained a defense verdict in a bench trial where plaintiff sought coverage for various elements of property damage at her home. The trial judge determined that all claimed damages were the result of long-term defects and otherwise excluded from coverage.

State Farm Fire and Cas. Co., v. Defendant

The Appellate Division, Second Department, affirmed the decision of the trial court which held that the insurer was not required to provide coverage for an underlying tort claim premised upon a sexual assault.

Plaintiff v. Defendant Collection Agency

Obtained summary judgment dismissing plaintiff's lawsuit premised upon the alleged violation of the Fair Debt Collection Practices Act. The trial court held that the debt was commercial in nature and therefore, outside the scope of the statute.



Community

- Past President, [Buffalo Alliance for Education](#)
- Founder and President, [Little Match Girl Foundation Ltd.](#)

Presentations

- Chair, Insurance and Risk Management Track, US Law Network Spring Meeting, April 2017.
- Co-Chair, Insurance and Risk Management Track, US Law Network Spring Meeting, April 2016.
- Presenter, “Primary and Excess Insurer Disputes,” US Law Conference, San Antonio, TX, April 9, 2015
- Chair, “Advanced Insurance Coverage: Emerging Issues, Developments, and Strategy,” New York State Bar Association, Buffalo, NY, May 9, 2014
- Presenter, “Litigation Update: Recent Decisions from the U.S.,” IntAP 2013 Spring Technical Meeting, Munich, Germany, June 12–13, 2013
- Panelist, “Lessons Learned From Superstorm Sandy — Regulatory Action or Reaction” and “Insurance Coverage Trends for Construction Defect Claims,” USLAW Spring Conference Spring 2013, Tucson, Arizona, April 3-5
- Presenter, US Law Network/Lloyd’s of London Claims Challenge, June 2008

Publications

- Co-Author, “[The Use Of Ridesharing Apps To Stage Car Accident](#),” DRI, September 1, 2022
- Co-Author, “Bad Faith Compendium,” Defense Research Institute, 2015
- Featured, “Five Questions With...Brian Biggie . . .,” Buffalo Law Journal, November 11, 2014
- Quoted, “Policyholders See Gain in NY Diocese Loss Over Deductibles,” Law360, May 9, 2013



- Co-Author, "The Global Supply Chain: Understanding, Measuring, Mitigating, and Managing Exposures in a Supply Chain Dependent Globalized Market," IADC Defense Counsel Journal, October 2012
 - Co-Author, "Asset Managers Do Not Owe Fiduciary Duty to Note Holders," Chartis Legal Insights, Fall 2012
 - Co-Author, "This Policy May Save Your Day," Business First, May 4, 2012
 - Author, New York Chapter, "Construction Litigation Desk Reference: A State by State Compendium," The DRI Defense Library Series, 2010
 - Co-Author, "The Devil's In the Details: Practical Consequences of Medical Malpractice Reform," International Claim Association Magazine, Winter 2009-2010
 - Co-Author, "The Growing Authority of Arbitrators Under the Federal Arbitration Act," PLUS Journal, July 2009
 - Co-Author, "It's Not Easy ... The Growing Potential for Green Claims," For The Defense, Defense Research Institute, April 2009
 - Co-Author, "The Unsettling Nature of Right to Consent Provisions in Professional Liability Policies," FDCC Quarterly, October 2008
 - Co-Author, "An Employee or Not an Employee That Is the Question: Companies Continue to Suffer the Slings and Arrows of Independent Contractors," DRI Labor Law Magazine, April 2008
 - Co-Author, "Saying Goodbye Is Hard to Do: Courts and EEOC Are Taking a Hard Look at Employee Severance Agreements," Buffalo Law Journal — Labor Edition, March 2008
- #
- Co-Author, "The Graves Amendment: A Widely Accepted Use of Congressional Power," DRI Trucking Magazine, March 2008
 - Co-Author, "Finding Peace Between ERISA and Tribal Sovereignty," DRI Life, Health and Disability Newsletter, Fall 2007