

## Brian D. Burton

Senior Attorney

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Brian Burton focuses his practice on complex commercial and corporate litigation and arbitration, drawing on his experience handling financial services litigation, civil litigation, tax controversy, white collar defense and regulatory compliance matters.

Brian has served as counsel in high-profile civil litigation in New York state and federal courts, as well as white collar defense matters, and routinely responds to government investigations and engages in settlement negotiations with the DOJ, SEC and the New York Attorney General's Office. He has served as counsel to financial institutions in a wide array of litigation and regulatory compliance matters. Brian was previously the chair of a prominent New York tax controversy practice, where he represented corporate taxpayers in a broad range of tax litigation cases before the U.S. Tax Court and the District Courts for the Southern and Eastern Districts of New York. In this capacity, Brian served as counsel to businesses in numerous investigations conducted by the IRS and state taxation authorities.

Brian was named a "Rising Star" by *Law360*.

### ***Representative Experience***

- Counsel for a major financial institution regarding fraudulent transfer investigations and customer arbitrations.
- Defended a multinational company in a \$100 million "reverse" False Claims Act inquiry by the Department of Justice.
- Represented an executive of a global reinsurance company as part of a trial team in a federal securities fraud trial and for the client's successful appeal to the Second Circuit. *U.S. v. Ferguson*, 653 F.3d. 61 (2d Cir. 2011).
- Represented corporate clients in employee/independent contractor misclassification investigations by state departments of labor, as well as trust fund recovery penalty (TFRP) matters before the IRS.
- Counsel in a complex reorganization matter before the U.S. Tax Court that tested the limits of "function versus form" in corporate structure.
- Secured an injunction in aid of arbitration for a major New York-based not-for-profit in a breach of commercial contract case. The injunction was affirmed on appeal by the New York State Appellate Division. *New York Rowing Assn. v. Peter Jay Sharp Boathouse, Inc.*, 939 N.Y.S.2d 41 (1st Dept. 2012). The decision is cited in legal treatises on arbitration in New York State, including *Carmody-Wait, 2d, Cyclopedia of New York Practice with Forms* (2015) and *New York Jurisprudence, 2d ed, "Arbitration and Award"* (2015).

### ***Publications & Presentations***

#### ***Publications***

- “New York DFS Unveils Two New Divisions Focused on Consumer Protection, Financial Enforcement, and Cybersecurity,” *Business Law Today*, American Bar Association, July 11, 2019.
- “FACTA 2016 Update: The Panama Papers and Beyond,” *Taxes, The Tax Magazine*, July 1, 2016.
- *Protecting Taxpayers from Tax Hikes (PATH) Act of 2015 and Other Recent Tax Acts: Law, Explanation & Analysis*, Wolters Kluwer, 2016.
- *Tax Practitioner’s Guide to Identity Theft*, Wolters Kluwer, 2015.
- “Mastering Forms of Tax Liability Relief,” *CPA Journal*, Vol. 85, No. 10, Oct. 2015.
- “Alternative Tax Advocacy,” *Journal of Tax Practice & Procedure*, Vol. 17, No. 4, Aug.-Sept. 2015.
- “Borderline: Federally Authorized Nonattorney Tax Practitioners, Streamlined Offshore Voluntary Disclosures, and the Unauthorized Practice of Law,” *Journal of Tax Practice & Procedure*, Vol. 17, No. 1, Feb.-Mar. 2015.
- “Nontraditional Tax Advocacy,” *Journal of Tax Practice & Procedure*, Vol. 16, No. 6, Dec. 2014-Jan. 2015.
- “Recent Developments in IRS Collection Due Process: Code Sec. 6751(b), Rescission vs. Withdrawal, and International Penalties,” *Journal of Tax Practice & Procedure*, Vol. 16, No. 4, Aug.-Sept. 2014.
- *Burton’s Legal Thesaurus*, 5th ed., editor, McGraw Hill, 2013.

### **Professional & Community Engagement**

- U.S. Tax Court
- New York County Lawyers’ Association, U.S. Tax Court Calendar Call Pro Bono Program (2014–2015)
- New York City Bar, Committee on Social Welfare Law, secretary (2010–2013)

### **Education**

- University of Pennsylvania (J.D., 2006)
- State University of New York at Binghamton (B.A., 2003)

### **Admitted to Practice**

- New York
- District of Columbia

### **Related Services**

Litigation | Commercial | Tax Controversy