

BRIAN MCMATH

NLG NACHAWATI LAW GROUP

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As a partner in Nachawati Law Group's Public Entity Litigation division, Brian focuses his practice on representing governments in complex civil enforcement actions in the areas of consumer protection, public nuisance, environmental harms, fraud against taxpayers/false claims, qui tam whistleblower actions, and more.

After joining the New Mexico Office of the Attorney General in 2017, Brian became director of the Consumer & Environmental Protection Division, where he led litigation teams that were ultimately successful in recovering over \$1.3 billion in civil penalties, nuisance abatement, environmental restoration, consumer restitution, debt forgiveness, educational funding, and other remedies on behalf of the people of New Mexico. Brian also helped lead New Mexico's litigation against the prescription opioid industry, overseeing the largest e-discovery project in State history and serving on the ad hoc committee of governmental claimants in the bankruptcy of Purdue Pharma. In 2019, Brian led a bipartisan coalition of 25 state Attorneys General in demanding that the Federal Trade Commission strengthen protections for children online, and his division's work litigating against the tech industry has contributed to wholesale changes in the way kids' mobile apps are marketed and sold today.

Before law school, Brian spent nearly a decade in Albuquerque media and advertising, giving him unique insights into claims involving the use of mass media. During law school Brian externed for the Honorable Jimmie V. Reyna of the U.S. Court of Appeals for the Federal Circuit and was selected as the Second Judicial District of New Mexico's Pro Bono Law Student of the Year. He is currently licensed to practice in New Mexico and before several federal district and circuit courts around the country. Brian is an avid amateur woodworker and welder, and he serves as a board member for Goodwill Industries of New Mexico.

PRACTICE AREAS:

Public Client Representation
Consumer Protection
Public Nuisance
Fraud Against Taxpayers / False Claims
Environmental Damages
Medical Drug and Medical Devices

EDUCATION:

Univ. of New Mexico School of Communication & Journalism, *cum laude*, 2006
J.D. University of New Mexico School of Law, *cum laude* 2015

LICENSED IN:

New Mexico

ADMITTED TO PRACTICE BEFORE:

New Mexico Supreme Court
U.S. District Court of New Mexico
U.S. Court of Appeals for the Tenth Circuit
U.S. Court of Appeals for the D.C. Circuit

ASSOCIATIONS:

Goodwill Industries of New Mexico, executive board member
New Mexico Bar Association
American Bar Association
Public Justice

NOTABLE CASES:

- *State Attorneys General Social Media Platform Litigation* - Currently represent the States of Nevada and Mississippi, as well as the Commonwealth of Kentucky, in state court consumer protection litigation against Meta Platforms (parent company of Messenger, Instagram, and Facebook), TikTok, Snapchat, and Alphabet (parent company of Google and YouTube). This litigation focuses on the design elements of these companies' social media and messaging apps and alleges that these design elements cause harm to minor users under the age of 18.
- *State Attorneys General Temu Litigation* - Currently represent the States of Arkansas and Nebraska, as well as the Commonwealth of Kentucky, in state court consumer protection litigation against Chinese e-commerce giant Temu. This litigation focuses on Temu's illegal data collection and protection practices as well as various illegal tactics Temu uses to entice buyers to order low-cost items.
- *State of Utah Opioid Litigation* - Previously represented the State of Utah in consumer protection litigation against the manufacturers, distributors, and retailers of prescription opioid drugs. This litigation focused on the manufacturers' misrepresentations about the safety and efficacy of their products to treat chronic pain, and on the distributors' and retailers failures to monitor their supply chains to identify and reject suspicious orders and fraudulent prescriptions. This litigation has helped to secure more than half a billion dollars for Utah drug treatment and harm reduction programs.
- *In re Kia Hyundai Vehicle Theft Marketing, Sales Practices, and Products Liability Litig.*, No. 8:22-ml-5052 (C.D. Cal.) – Currently represent the Cities of Albuquerque and Jackson in litigation against the makers of various Hyundai and Kia vehicles that lack basic industry-standard antitheft technology, making them incredibly easy to steal. These failures precipitated an epidemic of auto theft across the country, overloading local law enforcement resources.
- *State of New Mexico COPPA Litigation* - While with the New Mexico Office of the Attorney General, served as lead counsel for the State's litigation against app makers Tiny Labs and Rovio (developer of "Angry Birds"), as well as the Google Play Store and various software developers under the federal Children's Online Privacy Protection Act (COPPA). These cases resulted in the creation of an \$8 million grant program funding technology education in underserved schools across the State as well as robust injunctive relief that has changed the way Google Play lists and advertises gaming apps for children.
- *State of New Mexico Opioid Litigation* – While with the New Mexico Office of the Attorney General, served as lead counsel for the State's litigation against the opioid industry. Oversaw the largest single litigation discovery project in State government history, coordinating productions across two dozen State agencies, boards, and commissions. Assisted with a seven-week bench trial against Walgreens, resulting in a \$500 million settlement post-trial. New Mexico's recoveries in the opioid litigation totaled nearly \$1 billion along with robust injunctive relief, with all net settlement proceeds earmarked for drug treatment and harm reduction programs across the State.
- *State of New Mexico Plavix Litigation* – While with the New Mexico Office of the Attorney General, served as lead counsel for the State's litigation against the makers of blood thinner drug Plavix, alleging misbranding of the drug and failure to inform patients of serious issues with the drug's efficacy. Resulted in a \$72 million settlement as well as injunctive relief.

- *State of New Mexico AndroGel Litigation* - While with the New Mexico Office of the Attorney General, served as lead counsel for the State's litigation against the makers of testosterone replacement product AndroGel alleging misbranding of the product and other various consumer protection harms. Resulted in a \$23 million settlement as well as injunctive relief.
- *State of New Mexico Volkswagen Litigation* - While with the New Mexico Office of the Attorney General, served as lead counsel for the State's litigation against Volkswagen arising from its "clean diesel" emissions cheating scandal. Resulted in a \$13.5 million settlement as well as full restitution to all consumers and resolution of various environmental claims.
- *Twelfth Judicial District Court of New Mexico v. Board of Commissioners of Otero County* – While with the New Mexico Office of the Attorney General, represented a group of New Mexico judges in a writ action against Otero County over the construction of a new courthouse. The litigation resulted in \$30 million in funds being allocated to the construction project.

PRESENTATIONS:

- Panelist, National Civil Justice Institute, "The Future of AI and the Law," July 2024, Nashville, TN
- Guest Lecturer, University of New Mexico School of Law's Poverty Law in Practice program, "Protecting Marginalized Communities Through Civil Enforcement Actions," March 2024, Albuquerque, NM
- Presenter, Oliver Seth American Inn of Court, "Chasing the High (Courts): Unique Legal Issues Arising from New Mexico's Opioid Litigation," January 2024, Santa Fe, NM
- Presenter, Attorney General Alliance Africa Programme, "Combatting the Menace of Substandard and Falsified Medical Products Workshop," April 2023, Lagos, Nigeria (Virtual)
- Guest Lecturer, University of New Mexico School of Law's Poverty Law in Practice program, "Running the Consumer Gamut: State Attorney General Enforcement Actions, from Foreclosure Scams to Opioids," February 2023, Albuquerque, NM
- Panelist, screening of PBS documentary, *Love in the Time of Fentanyl*, January 2023, Albuquerque, NM
- Panelist, National Association of Attorneys General Presidential Summit, "Kids in Emerging Technologies," August 2022, Des Moines, IA
- Guest Lecturer, Attorney General Alliance Africa Programme, "Malawi Oral Advocacy Workshop," April 2022, Salima, Malawi
- Panelist, Attorney General Alliance Spring Policy Conference, "Creating a Safer Social Media Environment," March 2022, Palm Springs, CA
- Presenter, Credit Union Association of New Mexico, "COPPA Regulatory Update," January 2022, Virtual
- Panelist, Better Business Bureau's Children's Advertising Review Unit Annual Conference, "Year in Review," June 2021 (Virtual)

RECOGNITIONS:

- Second Judicial District of New Mexico, Pro Bono Law Student of the Year
- University of New Mexico School of Law Clinic Program, Clinical Honors