



# Brendan N. Gooley

SHAREHOLDER

HARTFORD

860.392.5036

860.392.5058

CONNECT

[bgooley@carltonfields.com](mailto:bgooley@carltonfields.com)

[LinkedIn](#)

## Overview

Brendan counsels and defends independent schools and colleges and universities in an array of matters, including student injuries and student discipline, with a particular focus on Title IX and FERPA issues. Brendan regularly advises schools regarding processes for disciplining students and defends schools in Title IX and breach of contract cases brought by students challenging discipline imposed on them. He has also defended schools in student injury cases ranging from wrongful death claims to slip and falls.

Brendan also advises employers on a wide array of employment matters, including various claims of employment discrimination and sexual harassment under Title VII, the Age Discrimination in Employment Act (ADEA), the Americans with Disabilities Act (ADA), and the Connecticut Fair Employment Practices Act (CFEPA). When those claims result in litigation, Brendan defends employers in all stages of litigation, including proceedings before the Connecticut Commission on Human Rights and Opportunities (CHRO) and in court. Brendan is an editor of the *Connecticut Employment Law Letter* and regularly writes articles regarding new developments relevant to Connecticut employers.

Brendan also advises insurers on coverage matters and is a frequent contributor to *Reinsurance Focus*, where he writes about reinsurance and arbitration developments.

As a former law clerk at the U.S. Court of Appeals for the Second Circuit and the Connecticut Supreme Court, Brendan also brings the experience gained from his clerkships to all aspects of his practice, including the appellate matters he handles.

# Experience

- Obtained order granting motion to strike housing discrimination complaint brought by state commission of human rights.
- Obtained summary judgment on all counts as to all plaintiffs in premises liability matter against school, including claims of catastrophic injuries, bystander distress, and in the face of multimillion-dollar demands.
- Obtained defense verdict after two-week jury trial in favor of defendant boarding school client in case brought by international student who sustained catastrophic injuries during school cycling activity, including claims of traumatic brain injury and more than \$1.2 million in medical care.
- Obtained summary judgment for insured client on premises liability claim arising from soccer-related traumatic brain injury claim.
- Obtained dismissal of case in its entirety in employment discrimination case.

# Areas of Focus

## Practices

- Labor & Employment
- Life, Annuity, and Retirement Solutions
- Appellate & Trial Support
- Education
- Life, Annuity, and Retirement Litigation

## Industries

- Life, Annuity, and Retirement Solutions
- Property & Casualty Insurance
- Life, Annuity, and Retirement Solutions

# Insights

04.01.2024

Labor and Employment Class Actions Increase by 10%

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03.11.2024

Ninth Circuit Upholds Decision Compelling Arbitration Based on Terms of Use in Hyperlinks

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02.19.2024

Second Circuit Holds That Refusal to Enjoin Arbitration Is Immediately Appealable Clarifies Standard for Obtaining Preliminary Injunction Enjoining Arbitration

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12.11.2023

Court Refuses to Compel Arbitration Based on Dissolution of Arbitral Forum

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10.26.2023

Tennessee Supreme Court Permits Consideration of Extrinsic Evidence in Dispute About Capacity to Enter Power of Attorney Used to Sign Arbitration Agreement

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10.06.2023

Munich Re Prevails in Alabama Reinsurance Dispute

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10.04.2023

Nevada Supreme Court Reverses Order Denying Motion to Compel Arbitration

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09.28.2023

NLRB Stacks Deck in Favor of Employees: Employers Must Play Cards Defensively or Go Bust

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08.15.2023

Who Is an Insured?

*The Reference Handbook on the Commercial General Liability Policy*

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08.04.2023

Southern District of New York Dismisses Petition to Confirm \$145M Foreign Arbitration Award for Lack of Personal Jurisdiction

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08.02.2023

Third Circuit Affirms Judgment Allowing Creditors of Venezuela Who Obtained Arbitration Awards to Attach U.S. Assets of Venezuela's National Oil Company

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06.20.2023

First Circuit Holds That New York Convention Preempts Puerto Rican Law

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06.02.2023

NLRB Ratchets Up Campaign Against Noncompete Agreements

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06.01.2023

First Circuit Provides Additional Guidance on FAA's Transportation Worker Exception

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05.30.2023

Second Circuit Clarifies Standards for Applying Presumption in Favor of Arbitration

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05.12.2023

En Banc Eleventh Circuit Overrules Prior Interpretation of New York Convention

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05.10.2023

First Circuit Weighs in on FAA's Transportation Worker Exception

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04.26.2023

Companies See Big Rise in Labor & Employment Class Actions and Defense Spending

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04.08.2023

Biden Administration Seeks to Prohibit Blanket Ban on Transgender Student Athletes

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03.28.2023

Fifth Circuit Refuses to Vacate Arbitration Award, Holds That Party's Arguments Merely Ask for Merits Review

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03.13.2023

Arbitrability Is Question for Court in Case Alleging Fraud Regarding Agreement Between Parties

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03.10.2023

Tenth Circuit Affirms Refusal to Vacate Confirmation Despite Foreign Court's Annulment of Underlying Arbitration Award

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02.17.2023

Supreme Court of Wyoming Confirms Arbitration Award

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02.15.2023

Fifth Circuit Affirms Judgment Confirming Award Despite Concluding Lower Courts Erred by Not Considering Claim That Dispute Could Not be Arbitrated

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01.28.2023

Decision Against McDonald's Includes Important Lessons For Employers About Sexual Harassment in the Workplace

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01.27.2023

D.C. Circuit Affirms Denial of Stay of International Arbitration Award Enforcement

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01.25.2023

Sixth Circuit Affirms Judgment Compelling Arbitration in Kroger/Union Dispute

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01.04.2023

Firefighter Who Allegedly Dealt Drugs Done in by Lying

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12.20.2022

Supreme Court of Arkansas Declines To Consider Part of Appeal Involving Court's Failure To Consider Motion To Compel Arbitration

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11.04.2022

Second Circuit Holds That Summons Is Not Required When Seeking Confirmation of Foreign Arbitral Award Against Foreign Instrumentalities

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11.02.2022

Court Confirms Almost \$23M Arbitration Award

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09.22.2022

Sixth Circuit Holds That District Court Erred by Not Analyzing Whether Non-Signatory Consented to Arbitration

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09.20.2022

Third Circuit Compels Arbitration Despite Dispute About Whether Assignment of Loan Containing Arbitration Clause Was Lawful

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08.31.2022

Second Circuit Concludes Suit to Recover on Defaulted Foreign Bonds Was Untimely

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08.10.2022

Second Circuit Concludes That Nigerian Ruling on Enforcement of Arbitration Award Is Entitled to Comity

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08.08.2022

Tenth Circuit Affirms Tax Court's Decision That Captive Insurance Arrangement Did Not Qualify for Tax Exemption

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08.02.2022

New Cases Apply Title IX to Independent Schools: Tips for Schools and Next Steps

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06.02.2022

D.C. Circuit Affirms Dismissal of Claims Against Reinsurers

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05.31.2022

Second Circuit Concludes That Workers Who Deliver Baked Goods Are Not Transportation Workers and Must Arbitrate Their Claims

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05.16.2022

Companies Report Rise in Labor and Employment Class Actions: Will the Trend Continue Through 2022?

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05.11.2022

Southern District of New York Concludes That Equitable Tolling Does Not Save Untimely Petition to Confirm Foreign Arbitration Award

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04.15.2022

New York Federal Court Confirms Arbitration Award Under Cyprus-Libya Bilateral Investment Treaty

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04.12.2022

Tenth Circuit Concludes Enforceability of Arbitration Clause Was Issue for Arbitrator

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03.21.2022

D.C. Circuit Concludes That IMF Did Not Waive Immunity by Agreeing to Arbitration

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02.22.2022

Ninth Circuit Concludes Domino's Drivers Are Exempt From FAA

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02.02.2022

Ninth Circuit Reverses Order Compelling Arbitration

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02.01.2022

CT Court Reverses Decision, Drops Hartford Probationary Police Officer's Bias Claim

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12.22.2021

Second Circuit Rejects Arbitration-Ordered Procedure for Determining Religious Exemptions to Vaccines in Favor of Title VII Standards

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12.20.2021

Sixth Circuit Concludes That Kroger Retirement Benefits Dispute Is Governed by Arbitration Clause in Collective Bargaining Agreement

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12.01.2021

Friday the 13th Lawsuit Scares Up Lessons on Employees vs. Independent Contractors

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11.23.2021

Second Circuit Affirms Judgment Confirming Dismissal of Claims on Statute of Limitations Grounds and Order Enjoining Plaintiff From Refiling His Claims

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10.12.2021

Federal Circuit Declines to Hear Challenge to Patent Board's Decision Even Though Decision Allegedly Involved Adjudicating Issues Subject to Arbitration

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10.11.2021

Seventh Circuit Concludes That Arbitration Clause That Waives ERISA Remedies Is Invalid

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09.13.2021

Second Circuit Affirms Denial of Motions to Compel Arbitration in Suit Against Trump Corp. and Trump Family

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08.05.2021

Court Refuses to Vacate Award Stemming From Workplace Personal Injury

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08.04.2021

Eleventh Circuit Declines to Compel Arbitration in Suit Against Rental Car Company Under Arbitration Clause in Orbitz's Terms of Service

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07.27.2021

OCR Issues New Title IX Guidance

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07.24.2021

Federal Court Upholds University's Vaccine Mandate

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06.21.2021

New Salary Range Disclosure Law May Create Headaches for Connecticut Employers

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06.18.2021

Court Confirms Arbitration Decision Concluding That Discrimination Claims Were Time-Barred

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05.04.2021

First Circuit Concludes App User Is Bound by Arbitration Clause in App's Terms and Conditions

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05.03.2021

Second Circuit Affirms Confirmation of ICC Decision Based on UAE Law

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04.15.2021

Sixth Circuit Concludes District Court Lacked Authority to Award Attorneys' Fees Following Arbitration

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04.13.2021

District Court Predicts that Alabama Supreme Court Would Refuse to Extend Bad Faith to Reinsurance Disputes

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04.01.2021

Doctor Alleges Wrongful Termination, Defamation

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03.23.2021

Aflac Waives Problematic Clause to Ensure Arbitration

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03.22.2021

Employer Enforces Arbitration Despite Absence of Signature

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03.12.2021

Title IX Changes May Be on the Horizon ... Again

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03.03.2021

Massachusetts Supreme Court Holds That Uber's Registration Process Did Not Provide Reasonable Notice of Terms and Conditions and That Arbitration Was Therefore Improper

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03.01.2021

London Court of Appeal Vacates and Remands Decision Blocking Transfer of Approximately 370K Annuity Policies

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02.05.2021

Court Compels Arbitration Because Non-Signatory "Knowingly Exploited" and Obtained Benefits of Agreement

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01.21.2021

Addressing Political Activism When Tempers Flare in Workplace

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12.16.2020

Federal Court Refuses To Compel Arbitration or Appoint Arbitrators Where No Party Had Refused To Arbitrate and Both Parties Were Working on Selecting Arbitrators

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12.14.2020

Southern District of New York Rejects Reinsurer's Claim that Exhaustion Provision Was Not Met; Concludes Indemnification Was Required Under Follow-the-Settlement Clause

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11.11.2020

Ninth Circuit Holds That a Change-of-Terms Provision Cannot Bind Parties To a New Browse-Wrap Agreement

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11.09.2020

Court Grants Temporary Restraining Order Enjoining FINRA Arbitration From Proceeding Pending a Decision on Arbitrability

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11.03.2020

Follow Clear Process When Disciplining Students Who Violate COVID-19 Protocols

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10.21.2020

Fourth Circuit Vacates and Remands Denial of Motion to Stay Case Pending Arbitration After District Court Refuses to Consider Evidence Beyond the Pleadings

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10.19.2020

Eastern District of California Grants Partial Summary Judgment to Plaintiffs in Reinsurance Mortgage Kickback Class Action; Reinsurer May Still Prevail

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09.30.2020

Court Rejects Claim Based on Interpretation of Clause in Private Purchase and Sale Agreement of Shares and Other Matters

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09.28.2020

Supreme Court of Mississippi Enforces Arbitration Agreement

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09.14.2020

Federal Judge Blocks Significant Portions of DOL's Joint Employer Rule

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08.18.2020

Tenth Circuit Refuses to Vacate FINRA Arbitration Dismissal

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07.30.2020

Third Circuit Concludes Arbitration Agreement Is Unenforceable Under the Prospective Waiver Doctrine

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07.28.2020

First Circuit Vacates Order Compelling Arbitration Over Arbitrator Selection Clause

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07.08.2020

Fourth Circuit Declines to Compel Arbitration Due to Missing Arbitration Agreements

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07.06.2020

First Circuit Rejects Argument That Arbitration Clause Was Unenforceable Because Contract Containing the Clause Was Allegedly Terminated and Superseded

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06.18.2020

Court Compels Arbitration With Respect to Insurers, Not Brokers

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06.16.2020

U.S. Supreme Court Holds Equitable Estoppel Can Allow Non-Signatories to Compel Arbitration Under the New York Convention

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05.29.2020

Fifth Circuit Rejects Challenges to \$147M International Arbitration Award

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05.27.2020

Fifth Circuit Suggests Question of Class Arbitrability Was for Arbitrator Not Court

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05.26.2020

5 Employment Policies to Draft or Redraft With Coronavirus Hindsight

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05.07.2020

Court Compels Arbitration Based on Merger Clause Incorporating Separate Agreement Into Contract Containing Arbitration Clause and Rejects Argument That Delay Precluded Arbitration

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05.05.2020

Class Actions Against Colleges and Universities Demanding Reimbursement of Tuition and Fees: What Schools Need to Know to Be Prepared and Are Independent Schools Next?

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05.04.2020

Fireman's Fund Obtains Second Circuit Reversal in Long-Running Reinsurance Dispute Involving Asbestos Claims and Policies Without Aggregate Limits

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04.16.2020

District Court Compels Arbitration for Claims Against Supervisor Despite Plaintiff's Claims Regarding Never Seeing or Signing Agreement Containing Arbitration Clause

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04.14.2020

First Circuit Affirms Confirmation of FINRA Award Over Claim That Arbitration Panel Should Have Held Investment Firm Liable Under Doctrine of Respondeat Superior

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03.26.2020

Eleventh Circuit Affirms Confirmation of Arbitration Award Over Claims of Fraud, AAA Rule-Breaking, and Lack of Jurisdiction

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03.24.2020

Northern District of New York Refuses to Change Credibility Determination Regarding Bench-Trial Testimony by Attorney Involved in Underlying Settlement Negotiations

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03.06.2020

Court Declines to Compel Arbitration Based on Third-Party Agreement

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03.04.2020

Southern District of Texas Compels Arbitration Over Insured's Claim that Arbitration Clause was Unconscionable

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02.14.2020

First Circuit Refuses to Vacate Arbitration Award Following Stock Dispute

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02.12.2020

Nebraska Appellate Court Affirms Dismissal for Lack of Personal Jurisdiction in Suit Involving Breach of Reinsurance Participation Agreement

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02.01.2020

Appeals Court Concludes Nurse Consultant Was Exempt From Overtime

*Connecticut Employment Law Letter*

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01.23.2020

Court Holds Former Director in Contempt Following Wild Reinsurance Dispute

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01.21.2020

Ninth Circuit Affirms Denial of Motion to Compel Arbitration in Smartphone App Case Based on Obscure “Browsewrap” Arbitration Clause

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12.30.2019

Recession Preparation 101: Plan for Potential Layoffs Ahead of Time

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12.12.2019

Connecticut Supreme Court to Consider Whether Parties Can Use FAA to Extend Time to Vacate Arbitration Award

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12.10.2019

Eighth Circuit Rejects Claim That Arbitration Clause in Retainer Was Unconscionable

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12.06.2019

Connecticut Supreme Court Fortifies Crumbling Foundation Claim Denials in Trio of Insurer Victories

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11.22.2019

Eleventh Circuit Rejects Insurer-Defended Policyholder’s Bid to Expand Florida’s Bad Faith “Excess Judgment Rule” to Include Collusive Settlements Concocted Without Insurer’s Consent

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11.19.2019

Court Enforces Arbitration Agreement Incorporated Into “Notice to Employees”

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10.28.2019

North Carolina Court Rules Reimbursement for Extracontractual Losses Discretionary

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10.08.2019

Second Circuit Confirms Arbitration Awards That Are (Literally) Out of This World

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09.26.2019

Connecticut Minimum Wage Increase Kicks in on October 1

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09.25.2019

New Connecticut Time's Up Act Begins Taking Effect October 1,

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09.19.2019

Southern District Concludes That Invocation of AAA's Rules Subjects Arbitrability Questions to Arbitrator, Rejects Waiver Claim

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09.17.2019

Could Concludes That Bankruptcy Discharge Does Not Affect Arbitration Clause

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08.28.2019

SDNY Denies Class Certification in Action Alleging Rate Regulation Violations

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08.26.2019

Ninth Circuit Concludes Defendant Waived Right to Seek Arbitration of Class Action

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08.23.2019

Second Circuit Confirms: Rolling Trash Cans Are Not “Vehicles” as Common Sense Prevails Again

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08.08.2019

Southern District of New York Rejects Claim That a Letter Threatening to Terminate a Reinsurance Agreement Terminated the Agreement

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08.06.2019

Fifth Circuit Holds Propriety of Class Arbitration Is “Gateway” Issue for Courts

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07.18.2019

Court Compels Arbitration Based on Text Message Agreement

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07.16.2019

Eighth Circuit Vacates Confirmation Over Lack of Personal Jurisdiction

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06.26.2019

Ninth Circuit Denies Mandamus After District Court Compels Arbitration Based on Allegedly Inconspicuous Arbitration Provision

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06.25.2019

Alabama District Court Enforces Arbitration Clause Related to Disability Policy Over Unconscionability Claim

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06.06.2019

Southern District Confirms Arbitration Award Over Challenge Based on Failure of Arbitrators to Disclose Information

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06.04.2019

U.K. Court of Appeal Prohibits “Spiking” in Mesothelioma Cases in Win for Reinsurers

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05.17.2019

Court Denies Reinsurers’ Attempts to Avoid Suit

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05.15.2019

New York Court Discusses Qualifying and Disqualifying Conditions for Umpires

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04.24.2019

Ninth Circuit Finds No Foreign Arbitration Award to Uphold

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04.24.2019

New York Federal Court Rejects Attempt to Vacate Arbitration Award Related to Theft of Corporate Assets

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04.19.2019

Name, Sex, and (Not) DOB? Connecticut Bill Could Ban Asking About Age

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04.04.2019

Perspectives: 'Partial Final' Does Not Mean Final

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04.03.2019

“Partial Final” Does Not Mean Final

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04.02.2019

Court Rejects Attempt to Relitigate Arbitration Award

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03.13.2019

Tenth Circuit Affirms Partial Enforcement of Arbitration Clause

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02.01.2019

Name, Sex, and (Not) DOB? CT Bill Could Ban Asking Job Applicants About Age

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01.30.2019

Will Insurance be the Death of Football? Market Constricts Amid Brain Injury Concerns

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12.19.2018

Defendants Not Liable for Insurance Agent's Ponzi Scheme

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12.18.2018

Court Enforces Policy's Crumbling Foundation Plain Language in Dismissing Claims Against Insurers

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10.01.2018

Court Invalidates California Unclaimed Property Law Regulations

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07.23.2018

Common Sense Prevails Over Dictionary Definitions: Rolling Trash Bins Are Not 'Vehicles' Judge Explains

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06.25.2018

Win for MassMutual in Rare Class Action Trial

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06.01.2018

Connecticut Ban on Asking for Salary History Begins

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09.09.2015

5 Tips for Minimizing Litigation Risks in the Hiring Process

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## News

02.16.2024

Carlton Fields Shareholder Class Featured in Law360: "Carlton Fields Taps 12 for Shareholder Roles Across 7 Offices"

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02.01.2022

Carlton Fields' Brendan Gooley Authors Connecticut Employment Law Letter Articles on Discrimination Claims Case and Employee Classification Case

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03.01.2021

Doctor Alleges Wrongful Termination, Defamation

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03.01.2021

Brendan Gooley Authors Connecticut Employment Law Letter Article on Political Activism in the Workplace

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05.26.2020

Brendan Gooley and Jonathan Sterling Published in HR Daily Advisor: 5 Employment Policies to Draft or Redraft with Coronavirus Hindsight

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04.19.2019

Name, Sex, and (Not) DOB? Connecticut Bill Could Ban Asking About Age

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12.07.2018

Carlton Fields Receives 2018 Lawyers for Children America Pro Bono Law Firm Award

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02.15.2018

Brendan N. Gooley Joins Carlton Fields in Hartford

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## Recognition

- *The Best Lawyers in America: Ones to Watch*, Education Law, Insurance Law, Labor and Employment Law – Employee, Labor and Employment Law – Management, Labor and Employment Litigation (2021–2024)

## Credentials

### Education

- University of Connecticut School of Law (J.D., high honors, 2015)
  - Managing Editor, *Connecticut Law Review*
  - Connecticut Moot Court Board
- University of Connecticut (B.A., summa cum laude, 2012)

### Bar Admissions

- Connecticut

### Court Admissions

- U.S. Court of Appeals, Second Circuit
- U.S. District Court, District of Connecticut

### Clerkships

- Hon. Andrew J. McDonald, Connecticut Supreme Court
- Hon. Christopher F. Droney, U.S. Court of Appeals, Second Circuit

## Background

- Law Clerk to the Honorable Christopher F. Droney, U.S. Court of Appeals for the Second Circuit (2017)
- Law Clerk to the Honorable Andrew J. McDonald, Connecticut Supreme Court (2015–2016)