



BRIAN M. UNDERWOOD

Associate

Atlanta

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BIOGRAPHY

Brian Underwood is a litigator on the firm's Media and First Amendment Team, through which he assists Internet and media clients navigate a variety of legal disputes involving their content and speech. In particular, Brian has repeated experience defending clients against high-profile defamation claims in both state and federal jurisdictions, litigating matters involving online advertising, copyright, or trademark matters, and securing the dismissal of a variety of claims based on Section 230 of the Communications Decency Act. These claims often involve complex questions concerning statutory and First Amendment protections and restrictions on commercial and non-political speech, on which Mr. Underwood has given presentations in both an in-house and conference setting,

As an additional complement to his media and First Amendment practice, Brian maintains a general commercial litigation practice in which he helps both media and non-media clients from a variety of

industries litigate a wide range of cases, especially in Georgia. While the particulars of every case will vary, Brian has a depth of knowledge in matters involving the interpretation of arbitration agreements under the Federal Arbitration Act, the protection of trade secrets, claims under the Telephone Consumer Protection, and alleged trespasses to computer systems under the Computer Fraud and Abuse Act. In addition to such matters, Brian also has experience in litigation involving non-compete/non-solicitation agreements, employment contracts, joint venture agreements, contracts for the sale or purchase of a business, and contracts for the licensing of intellectual property, as well as a large assortment of standard business torts such as fraud, tortious interference with business relations, and conversion.

Brian obtained his J.D. from the Duke University School of Law, where he served on the Executive Board of the *Duke Law Journal* and became a lifelong fan of Duke basketball. Brian remains, however, a loyal fan of the University of Georgia, his first alma mater where he obtained degrees in history and political science, and its football team.

PROFESSIONAL AFFILIATIONS

- Georgia Bar Association – Intellectual Property Section
- American Bar Association – Forum on Communications Law

ADMISSIONS

- Georgia, 2017

EDUCATION

Duke University, J.D., cum laude, 2017

University of Georgia, B.A., high honors, magna cum laude, 2013

RELATED PRACTICE AREAS

- Business & Commercial Disputes
- Media & First Amendment
- Marketing & Advertising
- Business Speech
- Litigation & Dispute Resolution

EXPERIENCE

- Defended online keyword advertising program from novel state law claims, including appeals to the Court of Appeals and the Georgia Supreme Court, *Edible IP, LLC v. Google, LLC*, No. S21G0798 (Ga. Feb. 15, 2022).
- Counsel for major news media organization in getting libel claims dismissed in case brought by Presidential campaign over op-ed piece, *Donald J. Trump for President, Inc. v. CNN Broadcasting, Inc.*, 500 F.Supp.3d 1349, 2020 WL 6608327 (NDGa, Nov. 12, 2020).

RESOURCES

PUBLICATIONS

- Co-Author, "[John Lewis: Profile of a Civil Rights Legend](#)," *The Communications Lawyer*, Fall 2020
- Co-Author, "[When Copyright First Met the Digital World: A Retrospective and Discussion of New York Times v. Tasini, 533 U.S. 483 \(2001\)](#)," *The Communications Lawyer*, Summer 2021
- Co-Author, "[Tips For Cos. On Ga. College Athlete Endorsement Law](#)," *Law360*, Oct. 12, 2021

SPEAKING ENGAGEMENTS

- D.C. Bar's Arts, Entertainment, Media and Sports Law Community Monthly Media Law Meeting. Brian presented with Eric Schroeder on representing CNN *Donald J. Trump for President, Inc. v. CNN Broadcasting, Inc.*, – F. Supp. 3d. – (N.D. Ga. Nov. 12, 2020), where they helped CNN successfully dismiss the libel case brought by the Trump Campaign over an op-ed published on CNN.com, 2021.
- The November 2021 ANA/BAA Marketing Law Conference in San Diego, California. Brian led a panel discussion on Section 230 of the Communications Decency Act, its relevance to online advertising, and efforts to curtail the scope and protection of Section 230.

RELATED INSIGHTS

Insights
Jun 23, 2023

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Insights

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What does the Palin v. New York Times case mean for you?

Insights

October 12, 2021

Attorneys author article over College Athlete Endorsement Law in Law360

News

Sep 27, 2021

BCLP in Multiple Outlets for Google Dismissal

Insights

Sep 22, 2021

BCLP Lawyer Co-Authors Article in 'Drake Law Review' on Severability Decisions

Insights

Aug 13, 2021

BCLP Team Authors Article for 'Communications Lawyer'

Insights

Apr 02, 2021

Supreme Court Issues Game Changing Definition of ATDS Under TCPA

On April 1, 2021, in *Facebook v. Duguid*, 592 U.S. ___(2021), the Supreme Court issued a unanimous and long-awaited ruling clarifying the definition of an "automatic telephone dialing system" ("ATDS") under the Telephone Consumer Protection Act of 1991 ("TCPA"), 47 U. S. C. § 227(a)(1): an ATDS is a system that uses a random or sequential number generator to dial or store telephone numbers for call. The key piece of this holding is that the "random or sequential" phrase applies to both storing the telephone numbers and dialing the telephone numbers. Otherwise, the Supreme Court reasoned, any phone capable of storing numbers (e.g., "virtually all modern cell phones") would be subject to the TCPA's onerous prior written consent requirements. Instead, unless the device has the capacity "to store . . . telephone numbers to be called, using a random or sequential number generator" or to "produce telephone ...

News

Feb 01, 2021

Atlanta Attorneys in 'Law360' on Dismissal of Google Suit

Insights

Jan 25, 2021

Underwood Authors Article on Civil Rights Icon for 'Communications Lawyer'