



## BRIAN E. KAVENEY

PARTNER, INDUSTRIAL SECURITY PRACTICE LEADER

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A former U.S. Marine Corps infantry captain and member of the Secretary of the Navy's staff, Brian E. Kaveney founded and leads the Industrial Security practice area, which serves clients across the U.S. and abroad. Brian has earned a national reputation in security clearance, government contracts (i.e., federal contract issues) and federal administrative and regulatory issues. Industry organizations often invite Brian to speak, train and educate companies and their employees about industrial security issues to prevent problems and ensure proper reporting.

Focusing on industrial security and litigation, Brian employs a disciplined approach advocating strong prevention solutions and collaboration with the U.S. Government to avoid disruptions such as costly delays or enhanced scrutiny from certain agencies of the Department of Defense (DoD), such as the Defense Counterintelligence and Security Agency (DSS).

Brian serves as outside general counsel to companies across the country, including foreign companies establishing operations in the U.S. This includes issues such as corporate governance, efficient contract processes and analyzing various hurdles such as required visas.

Brian is a frequent speaker and author on a variety of legal topics and he has been quoted by major national publications on industrial security law. He has served as a source and been quoted in articles by [Bloomberg](#), [Reuters](#), [Business Insider](#) and [other publications](#). Brian maintains a presence on legal topics in Missouri and Illinois. For example, Brian has published extensive articles on tort reform and the common interest rule. His articles have been cited by judges in their opinions.

### **Administrative/Regulatory Industrial Security Law (Security and Facility Clearance Law)**

Brian's experience includes government contracting, legal compliance, internal investigations and defense of government actions before certain agencies of the DoD such as the Defense Office of Hearings and Appeals (DOHA). When possible, he employs a collaborative approach with the U.S. Government, focusing on cost-effective solutions to save clients time, money and reputational harm. Brian has established strong compliance and industrial security programs for government contractors, universities and other facilities. He and his team conduct extensive review of candidates and screen certain employees for employers to reduce risk exposure.

In the facility clearance (FCL) context, concerns relating to Foreign Ownership, Control or Influence (FOCI) often arise due to the global market. Brian anticipates, negotiates

### **SERVICES AND INDUSTRIES**

Industrial Security and Security Clearance  
Governance and Compliance  
Government Contracts  
Government Relations and Public Policy  
Internal Investigations and Regulatory Compliance  
Litigation  
Outside General Counsel  
Noncompete and Trade Secrets  
Corporate

### **ADMISSIONS**

Missouri  
Illinois  
U.S. District Court, Eastern District of Missouri  
U.S. District Court, Southern District of Illinois

and implements the appropriate structures to mitigate and comply with FOCI issues under the National Industrial Security Program Operating Manual (NISPOM).

Brian and his team of former DSS officials guide cleared companies to address regulations and prevent undue influence from foreign entities, while enabling companies to successfully perform in a FOCI environment.

Brian and his industrial security team routinely assist cleared contractors in building, maintaining and defending robust insider threat programs to comply with applicable regulations and effectively protect important organizational assets. Depending on the objectives of the organization, Brian works closely with functional leaders to implement the appropriate insider threat program.

### **Individual Clearance Cases**

If a key, trustworthy employee faces a security clearance revocation or denial, Brian and his team analyze the allegations and then mitigate or explain the security concerns to obtain favorable decisions for the individual at the earliest opportunity. This approach can eliminate the need for the individual to appear before a judge or panel, which can be costly and unpredictable.

Brian has extensive experience winning matters already in dispute before various tribunals, including DOHA and other U.S. agencies. He has prevailed in cases before these agencies on behalf of executives and key trustworthy employees by presenting the appropriate mitigating evidence. For the last decade, he has earned a reputation with the U.S. Government, particularly DOHA, for presenting thorough evidence to prove that the individual is trustworthy to obtain or maintain a security clearance and handle classified information.

Numerous legal journals and industry periodicals have published Brian's articles. He has served as an expert witness in this context in litigation matters. Further, national publications such as Reuters and Bloomberg have interviewed and quoted Brian as a source for industrial security matters.

### **Government Contract Challenges**

Brian and his team of lawyers and non-lawyers (including retired government contractor security professionals) work to ensure clients anticipate changing policies and procedures within the U.S. Government, particularly the DoD. The team guides privately held entities, foreign-owned entities and publicly traded companies in maintaining and adhering to the appropriate rules, regulations and unique procedures. For example, the team has coordinated several successful novations under significant time constraints that required coordination across multiple agencies.

### **Outside General Counsel**

In his role as outside general counsel, Brian uses his Marine Corps infantry and legal training to consider the structure, vulnerabilities and efficiencies of the business' operations. Brian and his team implement strategies using lessons learned to enable businesses to plan for various contingencies. Additionally, Brian ensures that companies are ready to deal with challenges quickly and efficiently so that they may remain focused on growth and other business objectives. The team learns the business and

focuses on issues such as mergers and acquisitions and employment issues.

### **Litigation**

In the area of corporate law, Brian provides counsel on business law and corporate governance matters, as well as orchestrates joint ventures involving multinational entities and transactions. He implements plans and preventative measures to reduce risks and avoid litigation.

However, when litigation cannot be avoided, Brian represents clients in a wide range of matters, including breach of contract, noncompete agreements, trade secrets, confidentiality and fiduciary duty matters, shareholder disputes and employment matters. He has served as trial counsel in state and federal courts in Missouri and Illinois as well as administrative hearings across the U.S., such as before DOHA.

### **Honors & Awards**

Brian was selected as one of 163 attorneys under the age of 40 to be a National Law360 Rising Star in the aerospace and defense field. In addition, he received the Society Award from the Society of Industrial Security Clearance Professionals (NCMS) and was recognized as a "40 under 40" honoree by the St. Louis Business Journal. He was named an "Up and Coming Lawyer" by Missouri Lawyers Weekly and a Missouri/Kansas Super Lawyer®.

In addition, Brian co-authored [an article on mitigating insider threats](#) for the Association of Corporate Counsel's ACC Docket magazine, which was selected for a 2018 Burton Award for Distinguished Legal Writing. The Burton Awards program is run in association with the Library of Congress, and the article was selected among those submitted by the nation's most prestigious and largest law firms.

### **Community Involvement**

Brian uses his legal knowledge, particularly with respect to compliance and corporate governance, to counsel charities. For example, he takes pride in donating his time to charitable organizations that serve veterans suffering from PTSD and those that help veterans and their families, particularly during challenging, long deployments, such as the Injured Marine Semper Fi Fund.

### **EDUCATION**

- Saint Louis University School of Law (J.D., 2005)
- College of the Holy Cross (B.A., *cum laude*, 1998)
  - History
  - French Honor Society, Member

### **PROFESSIONAL ACTIVITIES**

- The Society of Industrial Security Professionals (NCMS) (Ethics Committee, 2013-present)
- National Defense Industrial Association (NDIA)

- The Missouri Bar
- Illinois State Bar Association
- Lawyers Association of St. Louis
- Missouri Organization of Defense Lawyers
- American Society for Industrial Security

#### **CHARITABLE AND CIVIC INVOLVEMENT**

- Injured Marine Semper Fi Fund (Adviser)
- Focus Marines Foundation - Serving Wounded Warriors (Adviser to the Board)
- USO of Missouri Inc. Young Leaders Board (Founder and Former Member)
- Missouri Friends of Injured Marine Semper Fi Fund (Former Board Member)
- Marine Corps—Law Enforcement Foundation (Former Committee Member)
- Kids in Motion (Former Committee Member)
- Rebuilding Together—St. Louis

#### **ACCOLADES**

- Recognized with a Law360 Distinguished Legal Writing Award from Burton Awards for [“How Employers Can Mitigate Insider Threats”](#) (2018)
- One of 163 attorneys under 40 selected for the Law360 national Rising Star list in Aerospace and Defense (2014)
- *Missouri/Kansas Super Lawyers*®, Rising Star (2013-2016); *Super Lawyers*®, Business Edition
- Received 2013 Society Award from the Society of Industrial Security Professionals (NCMS)
- Recognized as a 40 Under 40 honoree by the *St. Louis Business Journal* (2013)
- Named an “Up and Coming Lawyer” by *Missouri Lawyers Weekly* (2008)
- Board of Governors of the Marine Corps Association Award, Captain and Honor Graduate (1998)

#### **LANGUAGES**

- Conversational French

## **EXPERIENCE**

### **Favorable Outcome for Executive for one of the Top Six Defense Contractors in the World**

Successfully convinced the Defense Office of Hearings and Appeals (DOHA) to find in favor of an executive facing the revocation of his clearance due to inaccurate information provided by a medical provider.

### **Criminal Investigation Results in No Charges Filed**

Represented client in federal criminal investigation of violations of federal commercial statutes by company and its officers, resulting in no charges filed against client.

#### **Defeated Bid Protest of \$320 Million Contract Award**

Successfully defeated bid protest of a national intelligence agency contract award worth more than \$320 million over 10 years. When an unsuccessful bidder brought a U.S. Small Business Administration (SBA) protest against our client's receipt of a valuable government contract, we rapidly delivered persuasive and detailed arguments and evidence to the SBA, defeating the protest completely.

#### **Mitigation of FOCI Concerns for Facility Clearance Eligible Companies**

Successfully mitigated Foreign Ownership, Control or Influence (FOCI) concerns for facility clearance eligible companies related to Sweden, Germany, Canada, Japan, Norway, Finland, India, Slovakia and the United Kingdom.

#### **Resolved Significant Regulatory Issue After Entity Invalidated by DSS**

Resolved a significant regulatory issue for a large publicly traded company after the newly acquired entity was invalidated by the U.S. Government (Defense Security Service).

#### **Strategic Planning for Client in Real Estate Dispute**

Implemented a strategic plan for a significant real estate dispute when a seller attempted to seek a higher offer from a new buyer. Quickly filed a lis pendens and obtained records from various electronic sources to demonstrate that the seller, including multiple members of a trust, had indeed agreed to sell the property to our client. Obtained money for the client due to the disruption to the client's business.

#### **Withdrawal of Statement of Reasons Related to First-Time Security Clearance Applicant**

Convinced the Defense Office of Hearings and Appeals to withdraw a Statement of Reasons issued to a first-time security clearance applicant alleging concern under Adjudicative Guidelines B and C related to India.

#### **Representation for Client in Billing, False Claims Allegations**

Represented a major defense contractor in an investigation by the U.S. Attorney's Office and the Defense Criminal Investigative Service into allegations of improper billing and false claims. The matter was abandoned by the government after an extensive investigation. Presented significant, compelling evidence to demonstrate that the defense contractor had acted properly given the urgent need for the product by our warfighters.

#### **Seven-Figure Judgment in Shareholder Dispute for Physicians**

Won a high seven-figure judgment, including sanctions, at trial regarding a shareholders' dispute on behalf of three physicians against a former partner and medical practice.

#### **Seven-Figure Judgment in Shareholders' Dispute**

Won a high seven-figure judgment, including sanctions, in a trial of a shareholders' dispute on behalf of three shareholders against a former shareholder.

#### **Won Noncompete Case for National Staffing Company**

Won a noncompete case on behalf of a publicly traded, national staffing company against a former top salesperson, obtaining an injunction and monetary damages.

#### **Six-Figure Verdict After One-Week Jury Trial**

Won a six-figure verdict in a civil conspiracy/fraud/breach of contract case, including

punitive damages, for a construction company after a one-week jury trial.

## **THOUGHT LEADERSHIP**

April 5, 2017

**St. Louis Litigation Attorneys Co-Author Article on Mitigating Insider Threats, Earn Burton Award**

ACC Docket

May 15, 2015

**DOD CAF Backlog Likely To Endure Through 2016**

April 9, 2014

**Federal Contractors Face More Regulations on Pay Practices**

March 3, 2014

**Federal Contractor Update**

January 1, 2010

**The Common Interest Rule: May Parties Whose Interests Are Aligned Protect Their Coordinated Legal Strategy From Adversaries?**

Journal of the Missouri Bar, Vol. 66, No. 1