

Brian M. O'Neill

Partner

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education

Cleveland-Marshall College of Law
(J.D.), *cum laude*, 1987

The Ohio State University (B.S. in
Accounting), 1983

services

Mergers & Acquisitions

Real Estate

Commercial Finance

Financial Services

Corporate Governance

Middle Market

Private Equity & Venture Capital

ESOP

Food, Cosmetics & Dietary

Supplements

Hospitality

Real Estate Finance

Opportunity Zones

Brian O'Neill represents public and private companies and private equity funds in structuring and negotiating corporate mergers, acquisitions, divestitures, management buyouts, joint ventures, and going-private transactions, as well as advising on structuring corporate transactions and corporate governance matters.

Brian's experience also includes representing public and private companies on major real estate transactions. His work encompasses divestitures, exchanges, acquisitions, development, zoning and entitlements, construction, project financing, and equipment procurement and installation. His national and local real estate developer clients rely on Brian's counsel on the acquisition, development, construction, financing, and leasing of all types of commercial and residential real estate. Brian has handled a number of high-profile corporate headquarters projects.

In addition, Brian regularly represents financial institutions and corporate borrowers on asset-based, cash flow, acquisition, and other commercial transactions, including agent representation on syndicated loan transactions.

Brian joined Tucker Ellis from Ulmer & Berne, LLP where he was a partner (2000 - Feb 2012) and served on the firm's management committee and as chair of the firm's business department. Previously, Brian was a partner at McDonald Hopkins Burke & Haber Co., L.P.A. (1990-2000) where he served on the firm's management committee and headed the firm's banking practice.

state admissions

- Ohio (1987)
- Florida (1988)

experience

MERGERS & ACQUISITIONS

- Represented the shareholders of a high-profile Michigan-based software and benefits compliance company in the sale/merger of the company into a subsidiary of Axcel Partners / KKR
- Represented a leading technology solutions company in connection with the sale of its advanced technology and integration and managed services divisions to a leading worldwide technology company based in Europe
- Represented an investment advisory firm and its shareholders in a merger with another investment advisory and fund management firm to create a new company with over \$4 billion in assets under management
- Represented a foreign conglomerate and its North America holding company in the strategic acquisition of a privately held building materials manufacturer based in Michigan
- Represented a high-profile consumer brands company in connection with the sale of its flagship brands in North America to a worldwide consumer brands company; the transaction also involved worldwide (outside of North America) licensing arrangements for the flagship and other brands
- Represented a leading audio and video technology solutions company in the acquisition of a top competitor in the Midwest region
- Represented a leading intelligence aggregator in the sale of the company to a joint venture formed by the top insurance companies in the U.S.
- Represented a regional consulting firm in the acquisition of a controlling interest in a technology solutions firm and the merger of the firm's technology consulting firm into the target to form an expanded IT-managed services company
- Represented an analytics-driven database marketing and interactive firm and its shareholders in its merger with a private equity firm's platform company to create a leading analytics-driven customer engagement company
- Represented a leading institutional private equity sponsor in its divestiture of a portfolio company in the hardwood industry to a strategic buyer
- Represented a Cleveland-based private equity fund in the acquisition of a lumber company as a platform acquisition
- Represented the management team of a Cleveland-based manufacturing company (\$500MM+ revenue) in the sale of the company by one private equity firm to another private equity firm, including management retention agreements, bonus plans, equity rollover, employment agreements, and restricted stock
- Represented the shareholders of a high-profile wealth management and investment advisory firm in the sale/merger of the company into another investment advisory firm, including equity rollover, employment agreements, and restricted stock awards
- Represented the shareholders of a digital metrics marketing firm in the sale of the company to a Chicago-based platform company of a Cleveland private equity fund, including equity rollovers

- Represented the members of a venture-backed software and online learning company (for industrial sector) in the sale of the company to a high-profile national trade association
- Represented a Florida-based surgical instrument repair company to a publicly held strategic buyer
- Represented a public company in connection with the acquisition of a medical device company
- Represented the shareholders of a high-profile technology and network consulting company into a leading publicly held technology consulting company
- Represented a NEO waste disposal company in the sale of the company to the largest publicly held waste company in the U.S.
- Represented a private equity firm in an add-on acquisition involving a secured party sale transaction and debt restructuring
- Represented a steel service center company in connection with corporate restructuring and recapitalization
- Represented a leading retail goods company in connection with an out-of-bankruptcy debt restructuring, mezzanine financing, and corporate restructuring, including acquisition of all foreign shareholders
- Represented a French energy conglomerate in connection with several acquisitions in the U.S.
- Represented a shipping and logistics company in the acquisition of a trucking company
- Represented a hedge fund in connection with a PIPE investment
- Represented the buyer in connection with the acquisition and restructuring of a construction company, including corporate and debt restructuring
- Represented the shareholders of a national chemical and coatings company in the sale of the company and its foreign subsidiaries to Akzo Nobel NV, the largest coatings company in the world
- Represented a manufacturer of pressure-sensitive film label stock and a custom label manufacturer in strategic acquisitions by 3M Co. as part of a tax-free reorganization
- Represented a Canadian private equity group as Ohio counsel in their acquisition of Boykin Lodging Co. (a hotel REIT) as part of a going-private transaction and related financing
- Represented a private equity group in the acquisition of a public national franchise company in a going-private transaction and related financing
- Acted as local counsel to a major steel manufacturing company and its private equity owners in the acquisition of several public and private steel manufacturing companies in Ohio
- Represented a colorant manufacturer in the strategic acquisition of one of the largest competitors in the industry and related financing
- Represented an auto dealer in connection with the acquisition of a distressed dealership and a joint venture with another dealership
- Represented the selling shareholders of the seventh largest U.S. residential real estate brokerage company in the sale to a publicly held buyer as part of a tax-free brokerage reorganization
- Represented a leading international provider of parts and service to the beverage bottling industry in its strategic acquisition by a subsidiary of a leading Japanese trading company
- Represented one of Northeast Ohio's largest real estate brokerage firms in its sale to a national real estate brokerage franchise in a management-led buyout
- Represented a regional real estate brokerage firm in connection with a national franchise "roll-up"
- Represented a joint venture in the strategic acquisition of a Chinese import business and related debt and equity financing

- Represented an Ohio-based manufacturing company in the purchase of a large competitor through a Section 363 secured party sale
- Represented one of the nation's leading online sources for public records data in its strategic acquisition by an affiliate of the insurance industry's leading supplier of statistical data
- Acted as special counsel to a St. Louis-based ski resort operator in its acquisition of two of Northeast Ohio's ski resorts and related financing matters
- Represented a company in the acquisition of multiple product lines and divisions being spun-off as part of the corporate reorganization of a Cleveland-based public company
- Represented a private equity firm in the acquisition of a motorcycle manufacturing company
- Represented a privately held, Cleveland-based investment management firm in its strategic acquisition by a nationwide provider of wealth management services
- Represented a U.S.-based corporation in the formation of a domestic joint venture with foreign partners to develop and commercially exploit a patented technology
- Represented a private equity firm in the corporate reorganization of a platform company
- Represented numerous clients in the creation and implementation of equity incentive plans for key executives and employees
- Represented corporate executives in the negotiation of employment agreements, non-qualified plans, equity incentives, and stock-related agreements

REAL ESTATE

- Represented a national publicly held company in connection with the acquisition and privatization of a state-owned prison facility in Ohio
- Represented the developer of the Flats East project in Cleveland in connection with an anchor lease for 150,000 plus RSF with a Big 4 accounting firm and other tenant leases
- Represented a leading insurance broker in connection with lease of corporate headquarters, including building naming rights and major amenities
- Represented a public company in connection with lease of corporate headquarters facilities
- Represented a high-profile Cleveland-based company on construction contracts for its new corporate headquarters facility
- Acted as project leader and counsel for a national law firm in the firm's relocation to its new 100,000+-square-foot headquarters offices; the project involved site selection, lease negotiation, design, construction, technology, and relocation
- Regularly represents one of the largest shopping centers REITS in the United States in connection with portfolio shopping center divestitures, outlot sales, site assemblage and acquisition/development projects, ECRs, joint ventures and unwinds, and various financing transactions
- Acted as lead counsel to a local community college in connection with \$100-million construction/renovation projects at three campuses, technology procurement, and its entire energy conservation (guaranteed savings) program involving all of its facilities
- Represented a non-profit school in the acquisition and site development for a new high school facility and related financing
- Acted as lead counsel to a public company in the relocation of its corporate headquarters facility to Strongsville, Ohio; also regularly represents this company in connection with the acquisition and

development, disposition, and leasing of various manufacturing, distribution, and retail facilities throughout the United States

- Acted as lead counsel to an Ohio public company in a \$100-million plant expansion; project involved fast-track design and construction, technology implementation, equipment procurement and installation, sale/leaseback structure for tax purposes, tax abatements, port authority financing, State of Ohio development loans, and various other governmental grants and loans
- Acted as special counsel to a steel manufacturing company in the acquisition of several major steel manufacturing companies and facilities in Ohio and various development process design and expansion projects at these facilities
- Represented a privately held company in the development of its worldwide corporate headquarters facility in Cleveland, Ohio at a former brownfields site; project involved site acquisition, construction, environmental (including the first covenant not to sue issued in the State of Ohio), tax abatements, job credits, port authority bonds, and state and city loans
- Represented a client in the acquisition and assemblage of a 90-acre parcel in Northern Ohio and a joint venture for the development of a new retail mall and medical office building
- Represented a high-profile Cleveland-based developer and property owner in the sale and liquidation of its entire real estate portfolio, including shopping centers, apartment buildings, a theatre, and a prominent Cleveland office building
- Represented various Ohio country clubs in the sale of real estate to commercial and retail developers, including the negotiation of all easements and restrictive covenants
- Represented a national franchise company in the acquisition of its U.S. headquarters facility in Ohio
- Represented a private equity firm in the formation of a joint venture for the development of a 60-acre parcel in Northern Ohio as a lifestyle shopping center, including various 1031 exchange transactions
- Represented a private equity firm in connection with the sale/leaseback of the headquarters office and operating facilities for several of its portfolio companies
- Represented a REIT in connection with the disposition of a portfolio of industrial buildings throughout the United States

FINANCE

- Represented a national bank as agent in a series of syndicated real estate loans to national developers totaling over \$200 million for projects in Ohio and Florida
- Represented an Ohio-based public company in financing for a \$100-million plant expansion, including tax abatements, port authority financing, State of Ohio development loans, equipment leases, and various other governmental grants and loans
- Represented a publicly held company in a \$450-million unsecured credit facility and subsequent renegotiation to collateralize loans
- Represented various national banks in real estate "conduit" loans ranging from \$5 to \$75 million
- Represented a national bank as agent in a \$100-million syndicated loan to a national logistics company
- Represented a national bank in numerous participations on syndicated large corporate loans ranging from \$50 million to \$500 million
- Regularly represents various banks in asset-based and commercial loan transactions ranging from \$5 million to \$100 million

- Regularly represents national banks in the negotiation of complex intercreditor and subordination agreements
- Acted as local counsel to a manufacturing company in senior and subordinated acquisition debt financing transactions in excess of \$500 million
- Represented a Cleveland manufacturer in an \$11-million bond offering for plant expansion
- Represented various corporate borrowers in port authority and other bond financing transactions

publications & events

SPEAKING ENGAGEMENTS

- "Challenges Facing Boards of Directors: Key Issues in SEC Disclosures & Enforcement," The Directors Roundtable & the National Leadership Institute
- "Everything You Ever Wanted to Know About M&A But Were Afraid to Ask," U&B Business Group Series
- "M&A: Strategies for Success," U&B Business Group Series
- "New SEC Executive Compensation Disclosure Rules," PriceWaterhouseCoopers General Counsel Forum
- Speaker at several CLE presentations on a variety of corporate, M&A, real estate, and finance topics
- Various presentations to private equity firms on M&A, corporate governance, equity incentives, and executive compensation topics

MEDIA

- "The Future Of Dealmaking Post-Pandemic Will Need Time To Take Shape," *Smart Business Dealmakers* (May 2020)

honors

- Martindale-Hubbell® AV Preeminent® Peer Rating
- Ohio Super Lawyers® (2006-2020)
 - Top 100 Ohio Super Lawyers® (2012, 2014)
 - Top 50 Cleveland Ohio Super Lawyers® (2012-2014)
- The Best Lawyers in America® (2007-2020)
 - 2020 Cleveland Lawyer of the Year (Real Estate Law)
 - 2018 Cleveland Lawyer of the Year (Mergers and Acquisitions Law)
 - 2014 Cleveland Lawyer of the Year (Mergers and Acquisitions Law)
 - 2013 Cleveland Lawyer of the Year (Banking and Finance Law)
 - Real Estate Law (2007-2019)
 - Corporate Law (2009-2019)
 - Banking and Finance Law (2010-2019)
 - Mergers and Acquisitions Law (2013-2019)

in the community

- Leadership Cleveland, Class of 2007
- MetroHealth Foundation
 - Board of Trustees (2009-present)

- Executive Committee (2011-present)
- MetroHealth Children's Hospital, Vision Advocacy Council (2007-present)
- Cleveland Zoological Society
 - Board of Trustees (2012-present)
 - Executive Committee (2014-present)
- United Way, Corporate Fundraising Cabinet (2008-2009)
- Camp Ho Mita Koda, Board of Trustees (2003-2009)
- Juvenile Diabetes Research Foundation, Northeast Ohio Chapter
 - Board of Trustees (2001-2009)
 - Executive Committee
- Ohio State Bar Association
- Cleveland Metropolitan Bar Association
 - Board of Trustees (2003-2006)
 - Corporation, Banking and Business Law Section, Chair (2001-2003)
 - Banking Law Section, Leadership Team (2003-2006)
- Florida Bar Association
- Becker CPA Review Course, Instructor (1988-1998)