

## Jonathan L. Diesenhaus

Partner

Washington, D.C.

### Biography

Jonathan Diesenhaus advises and advocates for companies and professionals in the life sciences, health care, and other regulated industries surrounding civil, criminal, as well as administrative enforcement matters.

Jonathan helps clients respond quickly and efficiently to government investigations, evaluating allegations, reviewing evidence, assessing risk, and identifying strategies to achieve the most appropriate results.

As a leading False Claims Act (FCA) litigator, he defends qui tam cases brought by whistleblowers and the government in federal courts across the United States. Amid threats of prosecution and fines for retaining over payments, even when there was no fraud, Jonathan guides his clients through internal investigations, repayment, and, when necessary, voluntary disclosures to agencies and law enforcement. His clients include pharmaceutical and medical device companies, hospitals, physician groups, research universities, and academic medical centers.

Jonathan has been prosecuting and defending health care and government program fraud cases for over 25 years. From 1998 to 2005, he handled civil health care fraud, FCA, and qui tam cases as a senior trial counsel in the Civil Division of the U.S. Department of Justice (DOJ). He represented the government in matters that established the FCA as a vehicle to pursue violations of the Anti-Kickback Statute, the Stark Law, and the Food, Drug, and Cosmetic Act. Jonathan has received a number of awards for his work from the DOJ, the U.S.



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### Practices

Health

Investigations, White Collar, and Fraud

Litigation Services

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### Industries

Life Sciences and Health Care

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### Areas of focus

False Claims Act and Qui Tam

Hospitals and Health Care Providers

Medical Devices

Pharmaceuticals and Biotechnology

Cell, Tissue, and Gene Therapies

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Food and Drug Administration, and the Office of Inspector General in the U.S. Department of Health and Human Services.

Jonathan also works with industry and academic trade associations to educate policymakers on the complications of prosecuting health care fraud under both state and federal qui tam statutes, on the detrimental impact of qui tam and federal FCA investigations, and the effect that litigation has on businesses and individuals.

## Representative experience

Led investigation teams in sensitive data integrity matters, including manipulation of scientific data and price reporting information.

Secured Deferred Prosecution Agreement and civil settlement for global biotech company accused of adulterating a surgical adhesion barrier.

Won summary judgment for university in qui tam accusing its anesthesiologists of billing for services they didn't provide.

Resolved criminal and civil Anti-Kickback Statute charges against small pharma company by Deferred Prosecution Agreement and civil settlement.

Defended global generic drug manufacturer in first of its kind civil money penalties settlement with OIG-HHS for misreporting Average Sales Price data.

Favorable settlement after litigation for a New Jersey cardiologist of Stark Law and False Claims Act violations for referring patients to UMDNJ.

Investigated and settled grant fraud allegations for a major academic medical center in New York City.

Handling voluntary disclosures of excluded employee and billing problems for various corporate health care providers.

Won nine summary judgment motions and complete dismissal of wide-ranging qui tam alleging off-label promotion and violations of the Anti-Kickback Statute

## Education and admissions

### Education

J.D., University of California, Berkeley School of Law, 1988

B.A., University of Colorado, cum laude, 1985

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### Memberships

ABA, Health Law Section

ABA, Criminal Justice Section

Planning Committee, ABA National Institute, Health Care Fraud

American Health Law Association

Health Care Compliance Association

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### Bar admissions and qualifications

District of Columbia

Colorado

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### Court admissions

U.S. Court of Appeals, District of Columbia Circuit

U.S. District Court, District of Colorado

U.S. District Court, District of Columbia

U.S. Supreme Court

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against a pharmaceutical manufacturer.

Represented manufacturer of surgical sterilization equipment in FDA civil money penalties action for failure to report manufacturing quality problems.

Won dismissal of qui tam alleging that a large academic medical center's methodology for compensating employed neurosurgeons violated the Stark Law.

Representing hospital in federal grand jury investigation of allegations that surgeries were performed by unsupervised, unlicensed employed physicians.

## Awards and rankings

- Healthcare (District of Columbia), *Chambers USA*, 2020
- Healthcare (District of Columbia), Recognised Practitioner, *Chambers USA*, 2019
- Litigation: White Collar and Government Investigations (District of Columbia), *Chambers USA*, 2014-2019
- Healthcare: Service Providers, Hall of Fame, *Legal 500 US*, 2018-2020
- Healthcare: Service Providers, Leading Lawyer, *Legal 500 US*, 2013-2019
- Health Care Law, *The Best Lawyers in America*, 2013-2021
- Dispute Resolution: Corporate Investigations and White-Collar Criminal Defense, *Legal 500 US*, 2014, 2016-2017
- Inspector General's Integrity Award, 2005
- Civil Division Special Commendations, *U.S. Department of Justice*, 2003-2004
- Food and Drug Administration Commissioner's Special Citation, 1999

## Latest thinking and events

- News

- New circuit split on evidence needed to prove a kickback renders a claim false or fraudulent
- News
  - Proof in Trial: Appellate Edition: Integra Med Analytics LLC et al. v. Providence Health & Services et al.
- Press Releases
  - Season 2 of Hogan Lovells 'Proof in Trial' podcast series follows top-ranked Appellate practice
- News
  - Aerospace & Defense Insights: roadmap for False Claims Act enforcement in 2022
- News
  - FCA Podcast Series Episode 4: Decisions and Effects
- Press Releases
  - False Claims Act remains a key DOJ enforcement tool, warns new FCA Guide