

## 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 whistle-blowers 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



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### Practices

Health Law

Investigations, White Collar Crime,  
and Fraud

Litigation

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### Industries

Life Sciences and Health Care

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### Areas of focus

False Claims Act

Health Care Services

Hospitals and Health Care Providers

Medical Devices

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. 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

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.

Handling voluntary disclosures of excluded employee and billing problems for various corporate healthcare 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 against a pharmaceutical manufacturer.

Represented manufacturer of surgical sterilization

Pharmaceuticals and Biotechnology

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## 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

Barrister, Edward Bennett Williams Inn of Court

Member, Criminal Justice Section, White Collar Crime Committee, ABA

Program Chair and Planning Committee Member, ABA National Institute, Health Care Fraud

Section Leadership, Health Law Section, ABA

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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

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), 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*, 2018-2019
- Healthcare: Service Providers, Leading Lawyer, *Legal 500 US*, 2013-2018
- Dispute Resolution: Corporate Investigations and White-Collar Criminal Defense, *Legal 500 US*, 2014, 2016-2017
- Health Care Law, *The Best Lawyers in America*, 2013-2018
- Criminal Defense: White Collar, Civil Litigation: Defense, and Health Care, *Washington, D.C. Super Lawyers*, 2013-2018
- Outstanding Fraud and Compliance Lawyer, *Nightingale's Health Care News*, 2007
- Martindale-Hubbell 2014 "Preeminent" (5 out of 5) Rating - Litigation, Arbitration and Employment; Health, 2014
- Inspector General's Integrity Award, 2005
- Director's Award, *Executive Office of the U.S. Attorneys*, 2004

U.S. District Court, District of Columbia

U.S. Supreme Court

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## Accolades

"He is an excellent lawyer and at the top of his game - when it's a complicated and difficult issue he is extremely good at analyzing it and communicating his recommendation. He thinks very quickly on his feet."

*Chambers USA*

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- Civil Division Special Commendations, *U.S. Department of Justice*, 2003-2004
- Food and Drug Administration Commissioner's Special Citation, 1999

## Latest thinking and events

- Hogan Lovells Publications
  - HUD and DOJ signal easing of FCA enforcement in FHA residential mortgage lending through interagency memorandum
- Hogan Lovells Publications
  - HHS tackles barriers to value-based care: Part two – Substantial Stark Law regulatory revisions proposed *Health Alert*
- Published Works
  - Physicians' Difference of Opinion Not Enough for FCA Liability *Bloomberg Law*
- Hogan Lovells Publications
  - Eleventh Circuit Confirms: Mere Difference of Opinion Between Physicians Does Not Establish Falsity Under the False Claims Act *FCA Alert*
- Awards and Rankings
  - Hogan Lovells continues growth and recognition in 2019 Legal 500 U.S. rankings
- Published Works
  - INSIGHT: Defendants May Seek to Use Discovery to Soften Impact of SCOTUS Decision *Bloomberg Law*