



## Thomas H. Barnard

Shareholder

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Thomas H. Barnard is a trusted advisor to clients navigating the most difficult challenges. He is a former Assistant United States Attorney, military prosecutor and military defense counsel with more than 20 years of government experience.

Mr. Barnard is a nationally known litigator and a former Department of Justice attorney and military officer. He currently serves as coordinator of Baker Donelson's Healthcare Investigation Response Team (HIRT) initiative and leader of the Government Investigation sub-group in the Firm's Long-Term Care Center of Excellence. Mr. Barnard is the former vice chair of Baker Donelson's Government Enforcement and Investigations Group with first-chair criminal and civil trial experience. Outside of the courtroom, he regularly serves as the representative for individuals and corporations while interacting with the government in a wide variety of scenarios. Mr. Barnard is also an Adjunct Professor at American University Washington College of Law's Legal Rhetoric program.

With a primary focus on advising clients in response to government investigations, Mr. Barnard offers full-spectrum legal services to entities and individuals involved in any phase of government interaction including congressional investigations and coordination efforts with the government where clients are not the focus of the inquiry. Mr. Barnard offers in-depth experience with qui tams under the False Claims Act as well as federal and state investigations, with a large portion of his practice serving organizations and professionals in Health and Defense Industries. Other areas of practice include government contracts and procurement fraud; cybersecurity; National Security, Counterintelligence and related regulations and laws like ITAR; CFIUS and OFAC; Military Law; defending Law Enforcement in Civil Rights litigation; and general commercial litigation and trial experience.

Prior to entering private practice, Mr. Barnard served in the Civil Division of the United States Attorney's Office in the District of Maryland. While there, he served as counsel for the United States in numerous investigations under the False Claims Act, focusing on government contract and health care fraud. He also served as counsel in a wide range of defensive civil litigation for the United States, handling all aspects of cases through discovery, motions, mediation, trial and appeal. As the office eDiscovery coordinator, Mr. Barnard served on the Department of Justice eDiscovery Working Group, and the District of Maryland Sub-Committee on eDiscovery, and as a lecturer on eDiscovery at the National Advocacy Center.

Mr. Barnard's military career is an integral part of his current practice; he relies on decades of military service to better understand the unique needs of clients who regularly interact or do business with the government. Before retiring from the military, he was a judge advocate in the Maryland National Guard, where he supervised legal planning and support for the Guard's domestic operations. Before joining the Guard, he served on active duty, where he litigated criminal and administrative matters as both government counsel and defense counsel, served as a Special Assistant United States Attorney, and worked extensively as a legal advisor for matters related to military intelligence. Mr. Barnard initially served as a military police officer overseas before being selected for the Army's Judge Advocate General's Corps.



## Case Studies

- [Baker Donelson Obtains Motion for Summary Judgment for Hospital Client - Health Care False Claims Act](#)



## Representative Matters

- Successfully represented a private national hospice network in a False Claims Act investigation securing declination and dismissal involving allegations relating to the Anti-Kickback Statute.
- Successfully resolved a False Claims Act investigation by settlement for a sleep therapy company.
- Successfully secured declination of a False Claims Act investigation for a hospital system relating to alleged over-billing and miscoding.
- Successfully resolved a False Claims Act investigation for an ambulance transportation company alleging improper and unnecessary medical services.
- Assisted numerous health care clients in responding to Congressional investigations.
- Secured favorable plea terms and no-confinement sentence for a business owner facing criminal investigation for a HIPAA violation.
- Secured favorable plea terms and no-confinement sentence for an executive facing visa-fraud charges.
- Secured declination of criminal charges for a business woman facing criminal visa-fraud charges.
- Secured declination of False Claims Act investigation of a specialty pharmacy chain.
- Assisted a large government contractor in a successful protest of California public contract decision resulting in award of contract to client.
- Assisted a health care professional in securing a favorable plea and eventual probation before judgment resolution in a Medicaid fraud prosecution.
- Resolved claims on behalf of the United States with a spinal device manufacturer accused of miscoding and off-label promotion for \$585,000.
- Resolved claims on behalf of the United States against a government construction contractor accused of falsely certifying compliance with the Davis Bacon Act for \$450,000.
- Served as part of a trial team that secured dismissal of qui tam action on the eve of trial for a large Florida health care system.
- Resolved claims on behalf of the United States against a government contractor accused of falsely billing for products that did not meet contract specifications.
- Resolved claims on behalf of the United States with a spinal device manufacturer accused of off-label marketing and kick-backs to physicians for \$13.5 million.
- Resolved claims on behalf of the United States against a government contractor accused of falsely billing for costs that were not incurred as part of the performance of a contract.
- Resolved claims on behalf of the [United States against a government contractor](#) for allegations of over-charging labor costs based on falsely inflated resumes for \$1.1 million.
- Resolved claims on behalf of the United States with a spinal device manufacturer accused of miscoding, off-label marketing, and kick-backs to physicians for \$6 million.
- Pro bono assistance to a client in Baltimore City to secure substantial recovery from a home improvement contractor.
- Pro bono assistance to a prisoner client successfully getting settlement in 42 U.S.C. 1983 matter.
- Secured a "walk away" settlement for a government contractor in a no-win, complex litigation.
- Assisted a small business in negotiating with a self-insurance administrator for a substantial settlement based on misleading business practices.
- Secured dismissal of charge for a medical company executive charged with wrongful possession of a firearm.
- Secured dismissal of charge for a physician charged with assault of a patient.

- Successfully resolved qui tam for owner of a management company for several pain clinics with favorable settlement while other parties remained in litigation.
- Assisted a physician in securing a favorable plea and forfeiture settlement in a high-profile, opioid distribution and Medicaid fraud prosecution.
- Represented and assisted an individual charged under the Espionage Act in a high-profile, national case to secure favorable terms and conditions in a multi-year sentence of confinement plea.
- Secured State False Claims Act Settlement for Medicaid Claims at an adult day care facility.



## Professional Honors & Activities

### Professional Memberships

- Member – American Health Law Association
- Co-chair – ESI Subcommittee of the Bench-Bar Liaison Committee
- Member – Criminal Justice Act Panel, U.S. District Court for the District of Maryland
- Member – Baltimore City Bar Association
  - Member, Executive Committee
- Member – Federal Bar Association
  - Chair, Government Investigations and Enforcement Subcommittee
  - Member, Maryland Chapter Board of Directors
- Member – Maryland State Bar Association
  - Member, Board of Governors
- Member – University of Arizona Innovations in Health Aging Advisory Council (2023)

### Honoraries

- Listed in *Maryland Super Lawyers* in Civil Litigation: Defense (2021 – 2024)
- Recipient – Veterans in Business & Law Award by *The Daily Record* (2023)
- Recipient – Leadership in Law Award by *The Daily Record* (2021)
- Recipient – Legion of Merit (2016)
- Recipient – Office Civil Advocacy Award, United States Attorney's Office, District of Maryland (2014 and 2016)
- Recipient – Maryland Distinguished Service Cross (2016)
- Recipient – Knowlton Award for Contributions to Military Intelligence (2010)



## Professional Background

- Assistant United States Attorney, District of Maryland
- Judge Advocate, United States Army and Maryland National Guard
- Special Assistant United States Attorney – District of Maryland
- Military Police Officer, United States Army



## Publications

- ""Crackdown": Proposed Nursing Home Minimum Staffing Rule to Cost the Industry \$4.23 Billion and Would Directly Impact For-Profit Facilities" (September 2023)
- "Supreme Court Holds That FCA Requires Subjective Intent" (June 2023)
- "Practical Tips to Maximize Mentoring Relationships," *American Bar Association Law Practice Magazine* (May 2023)
- "Sixth Circuit Joins Eighth Circuit and Widens Circuit Split by Requiring "But-For" Causation in Some Anti-Kickback Cases" (April 2023)
- "Private Equity in the Crosshairs: Administration Continues to Raise Questions Over Role of Private Equity in Long Term Care," republished March 13, 2023, in *McKnight's Long-Term Care News* (February 2023)
- "Protected Activity? *Think Again.*," republished in the *Daily Business Review* (October 2022)

- "Being a Trusted Advisor in a Re-imagined Role for Business" (October 2022)
- Co-author – "Eighth Circuit Breaks from Third Circuit, Requiring the Government to Prove "But-For" Causation in Some Anti-Kickback Cases," republished August 15, 2022, in *Westlaw* (July 2022)
- Co-author – "HHS-OIG Enforcement Updates: Trends Relating to Telehealth Fraud Schemes and Tips to Avoid Them," republished August 23, 2022, in *Westlaw* (July 2022)
- Co-author – "The SEC's Climate and ESG Task Force: What it Means for Public Companies," republished in *Corporate Counsel* (July 2022)
- Co-author – "TALK THE TALK: Your Guide to Common 'Lingo' Heard Around the Courthouse," Maryland State Bar Association (February 2022)
- Co-author – "Planning for Increased Health-Related Enforcement Efforts in 2022: Responding to Government Audits and Investigations," republished February 17, 2022, in *Westlaw* (January 2022)
- Co-author – "Avoiding Audit Disaster After Receiving a Disaster Grant," *Law360* (December 2021)
- Co-author – "A Victory for Qualified Immunity. A Trend to Continue?" (November 2021)
- Co-author – "Employers Beware: Employee Non-Solicitation and Non-Recruitment Agreements Can Raise Potential Civil and Criminal Antitrust Liability" (August 2021)
- Co-author – "What Crypto Holders Can Learn From Early-2000s Tax Scandal," *Originally published by Law360* (June 2021)
- Co-author – "PPP Oversight: Congress Turns Its Focus to the Agency Diligence," republished May 26, 2021, in *Corporate Compliance Insights* (May 12, 2021)
- Co-author – "CARES Act Compliance for Physicians: The provider relief fund explained," *Medical Economics* (March 2021)
- Co-author – "Déjà Vu All Over Again: Pandemic Renews Focus on Ongoing False Claims Act Enforcement Priorities," republished in *Westlaw* (March 2021)
- Co-author – "Remote Depositions: A Great Tool for Litigators During Coronavirus," *Trial Spotlight Newsletter* (August 2020)
- Co-author – "Virtual proceedings: A Practitioners' Guide," *Westlaw* (July 2020)
- Co-author – "Congress CARES (Act): Expect Oversight Investigations" (June 11, 2020)
- Co-author – "A Prisoner's Dilemma: COVID-19 and Motions for Compassionate Release," *Westlaw* (May 28, 2020)
- Co-author – "At the Crossroads: Legal Considerations Where Government Investigations Overlap with Tort Risk in Long Term Care," republished May 19, 2020, in *McKnight's Long-Term Care News* (April 29, 2020)
- Co-author – "State and Local Enforcement of Executive Orders on the Rise as Businesses Reopen Across America: Be Prepared to Respond" (April 27, 2020)
- Co-author – "Navigating Remote Depositions: A Practitioners' Guide," republished May 7, 2020, in *Bloomberg Law* (April 22, 2020)
- Co-author – "Spinning Crisis into Gold? Avoid Creating Future Hardship When Seeking Access to Government Relief," *Wolters Kluwer* (April 17, 2020)
- Co-author – "How to Minimize the Risks of Receiving a PPP Loan and Seek Forgiveness," *CityBusiness* (April 16, 2020)
- Co-author – "Forgive and Forget? Receiving a PPP Loan and Seeking Forgiveness," *CityBusiness* (April 15, 2020)
- Co-author – "Forgive and Forget? Important Practical Advice for Borrowers Receiving a PPP Loan and Seeking Forgiveness," republished April 15-16, 2020, in *CityBusiness* (April 14, 2020)
- Co-author – "False Claims After Circuits Split on Medical Necessity Issues," *Bloomberg Law* (April 2020)
- Co-author – "Fair Pricing in Times of Need: Price Gouging Controls Expanded at Federal and State Levels in Response to COVID-19" (April 6, 2020)
- Co-author – "Plausibility Requirement for Pleading in FCA Cases Remains a Viable Defensive Tool," *Health Law Alert* (September 2019)

- Co-author – "Medicare Coding FCA Decision Is A Plausibility Reminder," *Law360* (August 2019)
- Co-author – "INSIGHT: What Lawyers Can Learn About Lawyers from the Mueller Report," *Bloomberg Law* (May 2019)
- Co-author – "INSIGHT: The Looming Litigation Buried in the Mueller Report," *Bloomberg Law* (March 2019)
- Author – "Welcome the United States District Court for the District of Maryland's Newest Judge, Magistrate Judge Gina Simms," Federal Bar Association, Maryland Chapter Newsletter (January 2019)
- Co-author – "Extra Protection For Press In Law Enforcement Investigations," *Law360* (August 2018)
- Author – "Ransomware and Medical Devices: A Growing Risk," *Law360* (September 2017)
- Author – "Important Themes in Upcoming Rule Changes," *The Maryland Litigator* (2016) [Ober|Kaler]



## Speaking Engagements

- "What to Expect When You are Expecting: The False Claims Act Edition For Long Term Care Facilities (SNF)," 2024 AHLA Long Term and Post-Acute Care Law and Compliance Conference (February 2024)
- Presenter – "301 Internal Investigations, Repayment, and Self-Disclosure," Health Care Compliance Association Healthcare Enforcement Compliance Conference (November 2023)
- Co-presenter – "The Rules of the Game," Roaring Reimbursement Zimmet Seminar (May 2023)
- Moderator – "Innovations in Healthy Aging Summit," 2023 University of Arizona Innovations in Healthy Aging Summit (May 2023)
- Instructor – "ESG Considerations for Public Companies," Law Practice CLE Webinar (May 2023)
- Co-presenter – "COVID Litigation Against Long-Term Care Facilities: Plaintiff and Defense Strategies in State and Federal Court," Strafford Continuing Education Webinars (December 2022)
- Co-presenter – "False Claims Act 101," Baker Donelson Government Enforcement and Investigations (November 2022)
- Panelist – "Private Equity Ownership: The Government's New Target in Long Term Care Enforcement," 2022 Baker Donelson Long Term Care Symposium (November 2022)
- "Innovations in Healthy Aging 2022 Summit: Bridging Academia and Industry" (June 2022)
- Special Guest Host – "How to Maximize your Summer Associate Experience: Tips for Leaving a Lasting Impression," Diversity Ever After Podcast (May 6, 2022)
- Co-presenter – "Disaster Relief and Compliance: Avoiding the Disaster following the Disaster," ABA Standing Committee on Disaster Response and Preparedness (September 2021)
- Panelist – "Hot Enforcement Trends in Nursing Homes and Proactive Steps You Can Take," Baker Donelson Long Term Care Symposium (December 3, 2020)
- Moderator – "Navigating Inspector General Investigations," Maryland Federal Bar Association (November 20, 2020)
- Panelist – "Qualified Immunity for Law Enforcement Officers: Abolishment vs. Preservation Panel Discussion," Federal Bar Association - Maryland Chapter's Diversity and Inclusion Committee (October 14, 2020)
- "Congress Cares (Act): Expect Oversight Investigations," Celesq® Webcast (July 2020)
- Co-presenter – "No Free Lunch: Analysis of the CARES Act and Enforcement Risks," Celesq® AttorneysEd Center (May 2020)
- Co-presenter – "Insider Threat Programs/Foreign Recruitment Programs," Government Contractor Attorneys' Meeting (May 2019)
- Presenter – "Home Health Conditions of Participation and Government Enforcement," Risk Management for Long Term Care Providers, Chicago, Illinois (October 2017)
- Presenter – "Snitches Get Stitches: The Rise of Evidentiary Social Media and the Government Response," webinar, Hanzo Media (August 2017)
- Presenter – "Social Media: Discovery and Ethics," University of Maryland College of Law (2016)

- Presenter – "The Cybersecurity Act of 2015: Does that Apply to Me?" and "Cybersecurity and Social Engineering: Recognize and Respond to It," National Cybersecurity Awareness Month Seminar, Nuclear Regulatory Commission (2016)
- Presenter – "Recognizing and Responding to Social Engineering Risks," First Annual Cyber Southwest Conference, Armed Forces Communications & Electronics Association – Tucson Chapter and the Arizona Cyber Threat Response Alliance/InfraGard (2016)
- Presenter – "Civil Discovery and Social Media," USAO, N. D. Texas; National Advocacy Center (2016)
- Presenter – "The Cybersecurity Act of 2015: Does that Apply to Me?," Information Technology and Cybersecurity Expo, Federal Business Council (2016)
- Presenter – "Professional Responsibility Issues with Social Media," National Advocacy Center (2016)
- Presenter – "Introduction to eDiscovery," University of Arizona College of Law (2016)
- Presenter – "Stoneham ex rel United States v. PoleZero Case Study," Boston Area Air Force Procurement Fraud Working Group (2015)
- Presenter – "Developing a Case Plan for eDiscovery and Upcoming Changes to the Rules of Civil Procedure," Litigation Technology for Attorneys Seminar, National Advocacy Center (2015)
- Presenter – "Conducting Rule 26(f) Conferences," eDiscovery Training for Civil Attorneys, National Advocacy Center (2015, 2016)



## Webinars

- False Claims Act 101 (September 2023)
- Plan the Work and Work the Plan: Responding to Government Investigations (April 2022)
- International Investigations (March 2021)
- What to Expect When You Are Expecting: The False Claims Act Edition for Long Term Care Facilities (March 2021)
- To Trial or Not to Trial: Changing Considerations and Strategies for Effective COVID-Era Dispute Resolution (March 2021)
- Artificial Intelligence as Evidence Webinar (February 2021)
- 2021 Health Care Outlook (February 2021)
- Key Insights to Prepare for CARES Act Provider Relief Fund Compliance and Enforcement (December 2020)
- Day 3: ABA Virtual National Institute on Health Care Fraud (November 2020)
- Congress CARES: Expect Oversight Investigations (July 2020)
- Navigating Congressional Investigations (June 2020)
- Lessons Learned: Trying Your First Case – ABA Section of Litigation Trial Practice and Young Advocates Committees (June 2020)
- COVID-19: Getting Back to Work (June 2020)



## Education

- University of Arizona, James E. Rogers College of Law, J.D., summa cum laude, 2001
  - Order of the Coif
  - Editor-in-Chief – *Arizona Journal of International and Comparative Law*
- United States Military Academy, B.S., 1995
  - Distinguished Cadet



## Admissions

- Arizona
- Maryland
- District of Columbia

- Army Court of Criminal Appeals
- U.S. Court of Appeals for the Fourth Circuit
- U.S. Court of Appeals for the Eleventh Circuit
- U.S. District Court for the District of Maryland
- U.S. Supreme Court
- U.S. Tax Court