



Michael E. Clark

Of Counsel

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Michael Clark is an accomplished litigator with a wide variety of experience assisting clients in matters involving complex fraud allegations, contract and business disputes, and securities fraud.

Michael Clark is an accomplished litigator with experience in both government (as the chief of the Criminal Division for the U.S. Attorney's Office in the Southern District of Texas) and private practice.

Michael has served as lead counsel in more than 100 jury trials and handled dozens of appeals. Among other things, he represents clients in False Claims Act cases and investigations, advises clients on regulatory compliance and corporate governance matters, and represents clients in internal investigations.

Before private practice, Mr. Clark had a distinguished government career. He began his career with the Galveston County District Attorney's Office before joining the U.S. Attorney's Office in the Southern District of Texas, where he served as a chief of its Financial Fraud Division and then as the chief of its Criminal Division before moving to the private sector. He joined Baker Donelson in July 2019.



Case Studies

- [Michael E. Clark Helped Energy Client Avoid Criminal Charges](#) - Fraud prosecution under the Commodities Exchange Act



Representative Matters

- Represented a physician in a government fraud probe. No charges filed despite two target letters.
- Represented a physician following a search warrant executed at his medical practice; no charges filed.
- Represented a securities broker in a government fraud probe. No charges filed although others convicted.
- Represented an energy market executive in a securities fraud and energy market fraud case; charges dismissed on eve of trial.
- Represented a hospital CEO in a government investigation.
- Represented a psychologist in a government fraud probe. No charges filed.
- Represented a company in threatened employment actions. No charges brought.
- Represented a businessman at trial and on appeal in a Clean Air Act prosecution.
- Represented a company as lead trial counsel in a federal court suit by injured workers.
- Representing an individual and various entities in an unsealed False Claims Act matter; charges against client dropped.
- Representing physicians in a sealed and unsealed False Claims Act matters.
- Representing physicians in a civil government investigation.



Professional Honors & Activities

- Board Member – Qui Tam Section, Federal Bar Association (2020)
- Member – American Bar Association
 - Vice Chair, Past Chairs Advisory Board, Health Law Section (2020 – 2021)
 - Vice Chair, ABA Relations, Health Law Section (2020 – 2022)

- Past Chair, Health Law Section
- Past Chair, Business Law Section, White-Collar Crime Committee
- Past Member, Editorial Board, *The Business Lawyer*
- Past Member, Standing Committee on Publishing Oversight
- Past Member, Planning Committee, ABA's National Institute on Securities Fraud
- Co-Chair/Member, Planning Committees: ABA National False Claims Act Trial Institute; ABA National Institute on Internal Investigations and Forum for In-House Counsel; ABA Foreign Corrupt Practices Act Trial Institute
- Liaison, ABA Standing Committee on Medical Professional Liability
- Recipient – Corporate LiveWire Global Awards for Healthcare Lawyer of the Year (2018, 2019, 2020)
- Recipient – Corporate LiveWire Global Awards in Fraud & White Collar Crime – Texas; and Criminal Law – Texas (2016)
- Listed as a "Top Lawyer" by *Houstonia Magazine* (2015, 2016)
- Listed in *The Best Lawyers in America*® in the area of Health Care Law (since 2014); Criminal Defense: White-Collar (2021); Commercial Litigation (2021)
- Named the *Best Lawyers'* 2020 Houston Health Care Law "Lawyer of the Year"
- Recipient – Corporate LiveWire Global Award in Healthcare Law – Texas (2015, 2016)
- Listed in *Texas Super Lawyers* (2007 – Present)
- Recipient – Kristi Couvillon Pro Bono Award from the Texas Civil Rights Project (2014)
- Listed in the "Top Rated Lawyers Guide to Health Care Law" by *Corporate Counsel* magazine (2012)
- Listed as a "Top Lawyer in Houston" in White-Collar Defense by *H Texas Magazine* (2008 – 2010)
- Recipient – Attorney General's Director's Award from the U.S. Department of Justice (1996)
- AV Preeminent® Peer Review Rated by Martindale-Hubbell®
- Past Director and Secretary – The Foundation For Cancer Survivors
- Fellow – American Bar Foundation
- Member – Houston Bar Foundation
- Adjunct Professor of Law, University of Houston Law Center
- Adjunct Professor, University of Florida College of Pharmacy
- Faculty instructor, NITA (Trial Skills, Deposition Skills and Advanced Deposition Programs)
- Advisory Board – University of Houston Law Center, Criminal Justice Institute (2005)

Publications

- Co-author – "SEC Developments: Strong Enforcement Wake Ahead," republished in *Westlaw* (April 2021)
- Co-author – "COVID-19 Considerations for SEC Cybersecurity Guidance, Disclosure, Enforcement, and Parallel Proceedings: Navigating the New Normal," *Journal of Investment Compliance* (December 2020)
- Co-author – "SEC Disclosures in the COVID-19 Enforcement Age," *Wolters Kluwer* (April 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 – "Spinning Crisis into Gold? Avoid Creating Future Hardship When Seeking Access to Government Relief," *Wolters Kluwer* (April 17, 2020)
- Co-author – "False Claims After Circuits Split on Medical Necessity Issues," *Bloomberg Law* (April 2020)
- Co-author – "Feds Crack Down on Hoarding of Scarce Materials and Price Gouging Due to COVID-19," *Daily Business Review* (April 7, 2020)
- Co-author – "HHS Issues Notice of Designation of Scarce Materials or Threatened Materials Subject to COVID-19 Hoarding Prevention Measures" (April 3, 2020)

- Co-author – "Department of Justice, States, SEC Pursue COVID-19 Enforcement Actions," *Daily Business Review* (April 2, 2020)
- Co-author – "Insights from First Securities Fraud Class Action Suit Against a Drug Manufacturer Developing a COVID-19 Vaccine," republished March 24, 2020 in *Texas Lawyer* (March 18, 2020)
- Co-author – "Silence is Not Always Golden: Recent Pharmaceutical Company Settlement with SEC Illustrates Various Risks Related to Disclosure Obligations of Reporting Companies," Part 3 (December 2019)
- Co-author – "Silence is Not Always Golden: Recent Pharmaceutical Company Settlement with SEC Illustrates Various Risks Related to Disclosure Obligations of Reporting Companies," *Securities Regulation Daily* (December 2019)
- Co-author – "Silence is Not Always Golden: Recent Pharmaceutical Company Settlement with SEC Illustrates Various Risks Related to Disclosure Obligations of Reporting Companies," Part 2 (December 2019)
- Co-author – "Silence is Not Always Golden: Recent Pharmaceutical Company Settlement with SEC Illustrates Various Risks Related to Disclosure Obligations of Reporting Companies," Part 1 (December 2019)
- Co-author – "Plausibility Requirement for Pleading in FCA Cases Remains a Viable Defensive Tool," *Health Law Alert* (September 2019)
- Editor-in-Chief – "Pharmaceutical And Medical Device Law: Regulation of Research, Development, and Marketing," *BNA Bloomberg Books* and the ABA Health Law Section, Second Edition
- Co-author – "Medicare Coding FCA Decision Is A Plausibility Reminder," *Law360* (August 2019)
- Featured – "Feature Friday," ABA Health Law Section News (August 2018)
- Author – "Securities Law Issues and Disclosure Considerations for Life Sciences Companies," *Pharmaceutical and Medical Device Law* (Bloomberg BNA /ABA Health Law Section, 2d Ed.)
- Interview with Wolters Kluwer on "Strategic Perspectives: Ebola: Legal Implications for the Press, Health Care Workers, Providers, Patients, Employers and Employees" (November 2014)
- Co-author – "Unlike Chess, Everyone Must Continue Playing After a Cyber-Attack," *Journal of Investment Compliance*, Vol. 14 Issue No. 4 (2013)
- Author – "The Responsible Corporate Officer Doctrine," *Journal of Health Care Compliance* (January – February 2012)
- "What is a 'Foreign Official?' and 'Vague Term Complicates Corrupt Practices Act Compliance,'" Washington Legal Foundation (November 2011)
- Co-author – "Insights into the SEC's Whistleblower Program," *The Review of Securities & Commodities Regulation* (October 2011)
- Co-author – "SEC Adopts Final Rules on Dodd-Frank Whistleblower Program," Alert (June 8, 2011); republished in the *Journal of Investment Compliance*, Vol. 12 No. 3 (2011)
- "The Dodd-Frank Act's Bounty Hunter Provisions," *The Review of Securities & Commodities Regulation*, Vol. 12 No. 3 (February 2011)
- Editorial Board – CCH Health Care Compliance Letter, CCH Incorporated (2005 – 2011)
- Editorial Board – *The Business Crimes Bulletin*, Law Journal Newsletters/American Lawyer Media, Inc. (2004 – 2011)
- "Whistleblower Risks Just Increased: What to Watch For," *Modern Healthcare* (November 2010)
- Co-author – "CMS's Stark Law Self-Referral Disclosure Protocol Raises Tough Decisions for Healthcare Providers," Alert (October 2010)
- "U.S. Financial Reform: New Whistleblower Incentives and Protections, and More Enforcement Expected," Alert (August 24, 2010); republished in *ABA Health eSource* (September 2010)
- Editor-in-Chief – LJM's *Bioethics Legal Review*, Law Journal Newsletters/American Lawyer Media, Inc. (2005)
- Editor-in-Chief – *The Health Care Fraud & Abuse Newsletter*, Law Journal Newsletters/American Lawyer Media, Inc. (2004)



Speaking Engagements

- Co-presenter – "Evolving Foreign Trade Risks Under CFIUS: What Lies Ahead?," Celesq/West LegalEdCenter Webcast (February 2021)
- Co-presenter – "Paying the Piper: PPP and Related COVID and CARES ACT Enforcement," Celesq® Webcast (November 2020)
- Moderator – "Inaugural ABA False Claims Act Virtual Trial Program," American Bar Association (July 7, 2020)
- Co-presenter – "No Free Lunch: Analysis of the CARES Act and Enforcement Risks," Celesq® AttorneysEd Center (May 2020)
- Co-presenter – "Insights from First Securities Fraud Class-Action Suit Against a Drug Manufacturer Developing a COVID-19 Vaccine," Celesq AttorneysEd Center Webcast (April 2020)
- Faculty and Planning Committee – "ABA False Claims Act Trial Institute," New York, New York (June 19 – 21, 2019)
- Instructor – "Deposition Skills," National Institute for Trial Advocacy, Houston, Texas (March 22 – 24, 2019)
- Speaker – "A Fraud and Abuse Primer," ACI's 2nd Digestive Health Center Management and Development Conference, Houston, Texas (July 19 – 20, 2017)
- Moderator – "Post-Escobar Fraud and Abuse Standards of Proof: Is a Liability Tidal Wave Coming?," webinar, ABA Health Law Section's Conference (May 31, 2017)
- Faculty Member/Presenter – American Bar Association First Annual Foreign Corrupt Practices Act Mock Trial Institute, Houston, Texas (November 16 – 17, 2016)
- Moderator – "Yates Memorandum: The New Normal?," American Bar Association, Washington, D.C. (October 13 – 14, 2016)
- Speaker – Seventh National Institute on Internal Corporate Investigations and Forum for In-House Counsel, American Bar Association, Washington, D.C. (April 27 – 29, 2016)
- Faculty Member – "National Institute for Trial Advocacy's (NITA) Deposition Skills Program," Houston, Texas (March 2016)
- Speaker – "Is a Liability Tidal Wave Coming? Post-Escobar Fraud and Abuse Standards of Proof," ABA Health Law Section's Conference, New Orleans, Louisiana (March 10, 2016)
- Speaker – "Healthcare Fraud and Compliance Fundamentals," American Bar Association (November 12, 2015)
- Panelist – "Steering Your Firm Through the Fog of the 'Cloud': How to Navigate Before You are Navigated," American Bar Association (June 15, 2015)
- Speaker – "Anatomy of an Investigation," American Bar Association's 2015 Physician Legal Issues Conference, Chicago, Illinois (June 10 – 12, 2015)
- Faculty – "Second National False Claims Act and Qui Tam Institute," American Bar Association, Denver, Colorado (June 3 – 5, 2015)
- Moderator – "Counterclaims in Qui Tam Cases: Emerging Strategies and Ethical Considerations," webinar, American Bar Association (May 7, 2015)
- Speaker – "Expert Testimony in Health Care Trial," National CLE Conference, Vail, Colorado (January 7 – 11, 2015)
- Speaker – "Medical Device & Legal Professionals: A Collaborative Exchange," American Bar Association and Medical Device Manufacturers Association, Washington, D.C. (December 11 – 12, 2014)
- Speaker – 12th Annual Washington Health Law Summit, American Bar Association, Washington, D.C. (December 8 – 9, 2014)
- Panelist – "Europe v. U.S. Food, Drug, Device & Tobacco Regulation & Policy: Emerging Issues and Comparative Analysis," The Food and Drug Law Institute, Brussels, Belgium (November 13 – 14, 2014)
- Tweet Chat, ABA Health Law Section (November 5, 2014)

- Interview with Talk 910 Radio Station: "Quarantine Parameters" (October 30, 2014)
- Panelist – "Cybersecurity: Impact on Health Care," Wolters Kluwer (October 9, 2014)
- Speaker – "Cyber Security – Impact on Health Care: How Can Being Right Today Put You at Risk Tomorrow?," Wolters Kluwer Webinar (October 9, 2014)
- Speaker – "Privacy and Cybersecurity: New Issues on the Horizon," 2014 ABA Annual Meeting, Boston, Massachusetts (August 9, 2014)
- Panelist – "The Physician and Attorney Relationship in a Fraud Audit: Working Through Related Ethical Issues," Physicians Legal Issues Conference, Chicago, Illinois (June 13, 2014)
- Co-chair/Speaker – "Crisis Management," American Bar Association's Internal Corporate Investigations and Forum for In-House Counsel Program, Washington, D.C. (April 25, 2014)
- Panelist – "Life Science Companies: Navigating Ethical Dilemmas," ABA Health Law Section's 15th Annual Emerging Issues Institute, Phoenix, Arizona (February 26, 2014)



Webinars

- To Trial or Not to Trial: Changing Considerations and Strategies for Effective COVID-Era Dispute Resolution (March 2021)
- Day 3: ABA Virtual National Institute on Health Care Fraud (November 2020)
- Heightened SEC Disclosures in the COVID-19 Enforcement Age (June 2020)



Education

- University of Houston Law Center, LL.M. (Health Law), 2000
- University of Houston Law Center, LL.M. (Tax), 1996
- South Texas College of Law, J.D., 1982
- University of Texas, Arlington, B.A., 1979



Admissions

- Texas, 1982
- U.S. District Court for the Northern District of Texas
- U.S. District Court for the Eastern District of Texas
- U.S. District Court for the Southern District of Texas
- U.S. District Court for the Western District of Texas
- U.S. Court of Appeals for the Fifth Circuit
- Supreme Court of the United States