



## → David T. Fischer

### Special Counsel

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David Fischer represents and defends companies in criminal and civil investigations and litigation. His practice focuses on False Claims Act investigations, litigation and trials and includes advising and advocating for clients in a range of industries—including healthcare, financial services, government contracting, and information technology—who are facing (or seeking to avoid) scrutiny from law enforcement or regulatory authorities.

For over two decades, David has represented individuals and companies in complex commercial litigation and government and regulatory investigations. He is a seasoned litigator, representing clients in federal and state courts, as well as in arbitrations, at all phases of civil enforcement litigation and complex commercial disputes—from e-discovery and motions practice through trial and on appeal. While David's practice focuses on cases involving allegations of fraud in the government contracting and health care industries brought under the federal False Claims Act and state false claims laws, it extends to a broad range of both white-collar criminal and complex civil litigation matters. Most recently, after a four-week trial, David achieved a favorable result in a False Claims Act case brought by the Department of Justice against a Fortune 100 company when the government was awarded only approximately \$50 million (approximately 5%) of the \$1.6 billion the government sought.

To minimize clients' risk and prevent disputes before they arise, David advises on whistleblower-related risks and conducts in-house compliance reviews to train employers. He also conducts internal whistleblower investigations and counsels clients seeking to develop and implement cost-effective and practical compliance and risk management programs. A unique aspect of his practice is counseling companies negotiating acquisitions or investments that are confronted with FCA investigations.

## Experience

David's significant matters include:

- Successfully defended NortonLifeLock, a Fortune 20 cybersecurity company, in a \$1.4 billion False Claims Act qui tam matter, in which the U.S. government and California sought in excess of \$1.2 billion in damages and penalties. The case was one of the largest False Claims Act matters to proceed to trial and the largest involving the GSA Schedule. After 10 years of litigation and a four-week trial, the court awarded the government approximately 5% of the amount the government sought.
- Tried, as second chair, the first indirect-purchaser antitrust case to proceed to trial on behalf of a health insurance company.
- Defended a national in-home managed care provider in investigation by the DOJ concerning allegations that providers were artificially inflating patients' RAF scores to increase reimbursement.

- Defense of medical device company in multiple False Claims Act litigation and investigations.
- Successful representation of physicians investigated for alleged False Claims Act and Anti-Kickback statute violations.
- Represented health care and government contracting companies facing government investigations resulting in non-intervention and/or non-prosecution.
- Defense of a pharmaceutical company in antitrust litigation for alleged monopolization of a brand name drug product.
- Defense of a pharmaceutical company in False Claims Act litigation for alleged off-label marketing.
- Represented international analytics and advisory firm in civil proceedings involving a False Claims Act/qui tam case and subsequent litigation with an insurer.
- Defense of a pharmaceutical company in RICO and Robinson-Patman litigation relating to coupon and discounting programs.
- Helped try a two-and-half month long antitrust trial involving multiple real estate companies.
- Appeal for a non-profit organization before U.S. Court of Appeals for the Seventh Circuit seeking the right to litigate a False Claims Act matter.
- Obtained a \$185 million recovery in a False Claims Act case involving a national mail order pharmacy.
- Representation of a pharmaceutical manufacturer in connection with federal and state investigations, litigation and qui tam False Claims Act actions involving Average Wholesale Price, Medicaid rebates arising out of pricing, and sales and marketing practices.
- *Pro bono* appeal of a disable veteran before the U.S. Court of Appeals for Veterans Claims.

## Articles

- ChristianaCare Settlement Reveals FCA Pitfalls For Hospitals  
*Law360*, 02.14.2024
- Co-Author, "Feature Comment: Lessons Learned On The Second Anniversary Of *Universal Health Servs., Inc. v. U.S. ex rel. Escobar*," *The Government Contractor*, Vol. 60, No. 21, June 6, 2018
- Co-Editor, *The Antitrust Review*, 2004-2012
- "Digital Evidence in Competition Investigations: National Comparisons (United States)," *Concurrences Review*, November 2009
- "Dr. Miles: Will The Supreme Court Find a Cure?" *The Antitrust Source*, February 2007
- "Cardizem CD®, K-Dur®, Plavix® and OxyContin®: Have We Entered The Endgame of Antitrust Uncertainty Towards Pharmaceutical Patent Litigation Settlements?" *Health Lawyers Weekly*, Vol. 4, No. 48, American Health Lawyers Association, December 15, 2006

## False Claims Act Defense Blog Posts

- "Health Care Suits at Center Stage in DOJ's FCA Recovery Report for FY 2018," January 11, 2019
- "Supreme Court To Address False Claims Act Statute of Limitations," November 28, 2018
- "The Supreme Court Discusses When A Statute May Be Unconstitutionally Vague – Will It Be Extended to False Claims Act Cases?," May 11, 2018

- "DOJ's Blue Book Partially Unsealed," January 26, 2018
- "DOJ Formalizes Guidance for Government Dismissal of Unmeritorious Qui Tam Suits," January 25, 2018
- [Qui Tam Suits](https://www.organizationalintegrity.com/2017/11/dismiss-unmeritorious-qui-tam-suits/) rel="noopener noreferrer" href="https://www.organizationalintegrity.com/2017/11/dismiss-unmeritorious-qui-tam-suits/">Change in Policy or Same Old Story? DOJ Suggests it Will Dismiss Unmeritorious *Qui Tam* Suits," November 3, 2017
- "DC Circuit Finds Government Failure to Seek Repayment is "Very Strong Evidence" of Non-Materiality In False Claims Act Case," March 1, 2017
- "HHS OIG Publishes Final Rule on Anti-Kickback Statute: Safe Harbors And Monetary Penalties," December 8, 2016

## Government Contracts & Investigations Law Blog Posts

- "The Expanding Scope of FCA-Cybersecurity Liability," September 5, 2025
- "The Squeeze is the Juice – Utilization of The False Claims Act in the DEI/Government Contracting Executive Order," January 29, 2025
- "There Are Limits! Reining In FCA Penalties Pursuant to the Excessive Fines Clause," August 1, 2024

## Healthcare Law Blog Posts

- "Eleventh Circuit Hears Oral Arguments in High-Profile Challenge to Constitutionality of The False Claim Act's Qui Tam Provision," December 12, 2025
- "Regeneron, the False Claims Act, and a New Era in Government Enforcement," October 30, 2025
- "Inferential Leaps and Conclusory Kickback Allegations Remain Verboten in False Claims Act Complaints," April 30, 2025
- "Proving Fraud is and Should Be Hard: Lessons from a Recent Medicare Advantage False Claims Act Decision," March 13, 2025
- "Supreme Court Clarifies that Subjective (Not Objective) Knowledge of Falsity of Claim Dictates False Claims Act Liability," June 2, 2023
- "Supreme Court Hears Arguments on False Claims Act Scienter Standard," April 19, 2023
- "Health Law Policy Heading Into 2022 At The ABA Health Law Summit," December 13, 2021
- "The Department of Justice Delivers Some Good News to the Healthcare Industry: New False Claims Act Guidance Predicts More Challenges to Qui Tam Plaintiffs," January 29, 2018

## Media Mentions

Top 6 Gov't Contract Cases In 2nd Half Of 2021  
*Law360*, 12.17.2021

Last Insurer Settles With Mylan In \$67M Antitrust Appeal  
*Law360*, 05.04.2018

FCA Enforcement Under Sessions DOJ Offers More Of The Same  
*Law360*, 11.21.2017

## Speaking Engagements

ABA False Claims Act and Qui Tam Trial Institute 2013, 2015, 2019 and 2024 (Co-founder, planning committee member and speaker in 2013; planning committee member and speaker in 2015, 2019 and 2024; and planning committee member and faculty for forthcoming 2026 program)

"What Circuits and District Courts the Relators and Defense Favor and Those They Try to Avoid," ACI's Life Sciences & Healthcare False Claims Litigation, May 22, 2018

"Substantive and Procedural Motions," District of Columbia Bar Association CLE Program Pre-Trial Skills Series, October 22, 2009, October 29, 2010, October 20, 2011, November 29, 2012, November 13, 2013, November 6, 2014, November 12, 2015 and November 29, 2016

"Damages: How Big or Small Is Your Case," ABA National False Claims Act and Qui Tam Trial Institute, June 6, 2013

"Reimbursement and False Claims Act Fundamentals," ABA Health Law Section, May 19, 2011 and February 7, 2013

"In-House Counsel Update," ABA Section of Antitrust Law Corporate Counseling Committee, June 2, 2011

"False Claims Act Changes and Challenges," Department of Energy Contractor Attorneys' Association's (DOECAA) Spring Conference, May 13, 2010

"The Government's Crackdown on Clinical Research Misconduct," Drug Information Association's Liability Risks in Clinical Trials Program, February 25, 2010

## Events

False Claims Act Mock Trial Institute 2026  
Eastern District of Louisiana - US District Court, January 14-16, 2026

Reception during ABA's False Claims Act Mock Trial Institute  
New Orleans, 01.15.2026

False Claims Act Mock Trial Institute 2024  
District of Columbia Court of Appeals Historic Courthouse, October 16-18, 2024

## Memberships

Member, National Defense Industry Association

Member, Board of Directors, Clarendon Child Care Center

Member, Editorial Advisory Board, *Competition Law360*, 2010-2011

## Practices

Governmental  
False Claims Act  
Organizational Integrity Group  
Healthcare  
Litigation  
White Collar Defense and Investigations  
Antitrust and Competition  
Government Contracts  
Healthcare Enforcement

## Industries

Life Sciences

## Education

J.D., Georgetown University Law Center, 1999  
B.A., Miami University, 1996

## Admissions

District of Columbia  
Virginia  
U.S. Court of Appeals for the District of Columbia  
U.S. Court of Appeals for Veterans Claims  
U.S. Court of Appeals for the Sixth Circuit  
U.S. District Court, District of Columbia  
U.S. District Court, Southern District of Ohio