



John N. Joseph

Principal
Chair, Internal Investigations & White Collar Practice Group

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Represents clients in complex civil and criminal investigations and cases brought under federal law, including the False Claims Act, the Anti-Kickback Statute, and the RICO Act.

Bio

John N. Joseph is a Principal and Chair of the Firm's Internal Investigations & White Collar Defense Group. He represents clients in complex civil and criminal investigations and cases brought under federal law, including the False Claims Act, the Anti-Kickback Statute, and the RICO Act. Mr. Joseph's clients originate from a broad spectrum of industries, including: health care; pharmaceutical and medical device; securities, insurance, and financial services; food services; and manufacturing. He has also been qualified and has served as an expert consultant and trial witness in high-stakes litigation that requires expert testimony regarding how law enforcement perceives and acts upon allegations of fraud, whistleblower retaliation, and other civil and criminal violations.

Mr. Joseph has successfully represented clients in diverse cases ranging from off-label marketing and health care fraud to RICO violations, commercial civil litigation and environmental non-compliance. As part of these engagements, he collaborates proactively with clients in conducting internal investigations to identify and develop options for reducing, or resolving, exposures.

As a former Assistant United States Attorney in both the Criminal and Civil Divisions, Mr. Joseph possesses extensive complex investigation, discovery, and trial experience in significant civil and criminal cases. Based on his civil enforcement experience, Mr. Joseph works with in-house counsel to develop and enhance compliance programs and practices to avoid potential law enforcement actions. In addition to his white collar work, Mr. Joseph maintains a robust commercial civil litigation practice.

Mr. Joseph's background in both the DOJ's Criminal and Civil Divisions makes him a sought-after expert witness and consultant both before and during trial. Drawing upon his almost twenty-year career as a federal prosecutor, he provides an experienced perspective on how and when civil or criminal actions are taken by the DOJ, what may or may not constitute fraud and violations of the federal False Claims Act, the effectiveness of corporate compliance programs, and how the DOJ views retaliation in whistleblower cases. Cases where Mr. Joseph has served as an expert witness include litigation seeking specific performance in connection with a pharmaceutical industry transaction in which the putative seller was under investigation for potential fraud, a litigation seeking the dissolution of a major metropolitan cancer treatment joint venture, and a whistleblower retaliation case involving an international courier delivery service.

Practices

- Internal Investigations & White Collar Defense
- Health Care
- Health Care Regulatory Services
- Health Care Litigation Services
- Information Privacy and Security
- Appellate
- Information Technology
- Class Action Defense
- Environmental
- Environmental Regulation and Litigation
- Commercial Litigation
- Hospitality and Retail
- Bankruptcy and Creditors' Rights

Industries

- Communications
- Health Care
- Pharmaceutical
- Medical Device & Life Sciences
- Banking and Financial Services
- Energy and Utilities
- Hospitality
- Higher Education
- Manufacturing
- Construction

Education

- J.D., *Dean's List*, University of Pennsylvania Law School, 1986
Recipient of the American Jurisprudence Award, Civil Procedure
- B.A. in Economics, University of Pennsylvania, 1983

Bar Memberships

- New Jersey (1986)
- Pennsylvania (1986)
- District of Columbia (1987)

Mr. Joseph's practice areas include:

- alleged fraud and abuse by health care systems/providers and pharmaceutical and medical device manufacturers, including billing, contracting, kickback and product marketing issues;
- *qui tam* defense;
- RICO Act defense;
- government contracting and reimbursement;
- tax, insurance, mail, wire, and financial institution fraud;
- complex commercial and civil litigation;
- environmental litigation under all federal environmental laws, including the Clean Water Act and the Clean Air Act;
- securities fraud/FCPA;
- internal theft and misconduct;
- computer vulnerability and identity theft;
- immigration fraud; and
- public corruption.

Mr. Joseph has taught or lectured on white collar crime, the False Claims Act and trial advocacy at The Department of Justice's National Advocacy Center, and has served as faculty for the National Institute for Trial Advocacy. He has also written and spoken on issues of fraud and compliance at programs hosted by the AHLA-HCCA Fraud & Compliance Forum and the Pennsylvania Bar Institute. Mr. Joseph also serves on the AHLA's Fraud and Abuse Enforcement Panel. As a member of AHLA's Fraud and Abuse Enforcement Panel, Mr. Joseph has written on a number of topics including articles for the AHLA's *Journal of Health and Life Sciences Law* concerning off label marketing issues and potential emerging defenses. While Mr. Joseph served as the Deputy Chief of Affirmative Litigation for the Eastern District of Pennsylvania's Civil Division, in recognition of his groundbreaking and innovative work, he was tapped to serve on Main Justice's National Fraud Working Group, which sets policy and conducts training for the Department's nationwide efforts to fight corporate and national healthcare fraud.

Mr. Joseph spent twelve years as an Assistant United States Attorney in the Civil Division, including five years as the Deputy Chief of the Civil Division supervising all actions brought by the United States, including all cases and *qui tam* actions brought by the government under the False Claims Act. During his tenure in the Civil Division, Mr. Joseph recovered over \$300 million in settlements and judgments in fraud cases spanning a variety of industries, with a focus on health care fraud and government contracting.

Mr. Joseph also served four years as a criminal prosecutor in the Criminal Division's Securities and Financial Fraud Unit where he investigated and prosecuted a variety of financial institution fraud cases and handled a number of complex jury trials. He began his legal career as a Trial Attorney in the Attorney General's Honor Program in the U.S. Department of Justice's Civil Fraud Section. Serving there from 1986 to 1989, he handled large white collar fraud matters in jurisdictions across the nation. As a Trial Attorney at Main Justice, Mr. Joseph personally handled fraud matters for a broad spectrum of federal agencies, most notably complex contractor fraud cases for the Department of Defense and NASA.

From 2015 to 2021, Mr. Joseph was listed in Pennsylvania Super Lawyers/*Philadelphia Magazine* for Criminal Defense: White Collar, Business Litigation. *The Best Lawyers in America*® recognized Mr. Joseph in its 2020, 2021, and 2022 editions in the category of Criminal Defense: White-Collar. Chambers and Partners ranked Mr. Joseph in its *Chambers USA Guide* 2021 in the category of Litigation: White-Collar Crime & Government Investigations - Pennsylvania. For information about these selections and an

Court Admissions

- U.S. District Court for the Eastern District of Pennsylvania
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Federal Claims

overview of common third-party publications, rankings, and lists methodologies, [click here](#).

Representative Cases

- Multi-national medical device manufacturer under federal investigation for kickback and price reporting violations. **Result:** Government declination.
- Multi-national pharmaceutical manufacturer under criminal and civil investigation for kickback and off-label marketing violations. **Result:** Global settlement in amount several multiples below that of comparable "pharma" cases.
- False Claims Act suit brought against national hospital system alleging payments received under a contract with one of the system's Pennsylvania hospitals were meant to prompt patient referrals, i.e. kickbacks. **Result:** Motion to dismiss case granted by federal judge for Eastern District of Pennsylvania, finding theory of kickbacks, "implausible." Dismissal upheld by Third Circuit Court of Appeals.
- Business and tax attorney subject to 25 count federal indictment and and tried in 6-month RICO trial. **Result:** Acquittal of all charges.
- Multi-national electronics corporation targeted in a federal tax fraud investigation. **Result:** Global criminal and civil settlement with stipulated lower financial penalty. No prosecution of any individuals.
- *Pappa v. Unum Life Ins. Co.*, 2008 U.S. Dist. LEXIS 21500 and 39560 (M.D. Pa. 2008) (dismissal of multi-count, multi-million dollar RICO case regarding claims handling practices).
- Two major hospital systems under investigation for "one-day stay" billing violations. **Result:** For one, a rare settlement under the standard "double damages" amount with no corporate integrity agreement (CIA); for other, declination.
- Multi-national advertising corporation embroiled in a federal corruption/fraud investigation. **Result:** Criminal declination. No civil exposure.
- Large durable medical equipment corporation subject to undercover recordings and told that its CEO is targeted on health care fraud charges. **Result:** Criminal declination. Low False Claims Act civil settlement.
- Major hospital system under investigation for organ transplant-related billing violations. **Result:** Government declination.
- Large multi-national food company investigated by a grand jury for environmental false statements pursuant to EPA inspection. **Result:** Criminal declination.
- National construction firm investigated for alleged fraud in highway construction project and possible debarment. **Result:** No criminal prosecution. Debarment action withdrawn.
- Large construction company sued under False Claims Act. **Result:** Motion to dismiss company granted.
- National health system sued for fraud by physicians as regards a multi-million dollar joint venture ambulatory surgery center. **Result:** Summary judgment granted by trial court; affirmed on appeal.
- Engineering firm involved in construction project sued under False Claims Act. **Result:** Nominal settlement.
- Health care system's contract practices under scrutiny. Internal investigation results in self-disclosure to the fiscal intermediary. **Result:** No federal criminal or civil prosecution.
- Multi-national pharmaceutical corporation suspects employee misconduct. **Result:** Internal investigation uncovers sales person self-dealing. Internal corrective action.

- High-ranking executives of multi-national oil company and multi-national engineering company embroiled in Foreign Corrupt Practices Act (FCPA) investigations. **Result:** No criminal or civil sanctions.
- Owner/executive of major construction company charged with tax and immigration-related crimes. **Result:** Probation.
- High-ranking executive for a collapsed insurance company targeted for insurance fraud due to regulatory filings. **Result:** Criminal declination.
- Political figure federally charged in 47-page racketeering (RICO)/fraud indictment. **Result:** Plea agreement to a misdemeanor tax charge, \$250 fine and probation.
- Young adult charged in felony computer hacking conspiracy with worldwide publicity. **Result:** Plea agreement to misdemeanor computer charge and probation.
- Physician targeted in federal criminal investigation for billing practices. **Result:** Criminal declination. Low civil settlement.

Publications

- Co-Author, "DOJ's China Initiative Poses Growing Risks for Those with Chinese Ties," *Business Crimes Bulletin* (November 2020)
- Co-Author, "The Blurry Line between Legitimate Discounts and Criminal Kickbacks: What Health Care Clients Need to Know," American Health Lawyer's Association *Fraud & Abuse Report*, Vol. 2, Issue 2 (December 2013)
- Co-Author, "Is Sorrell the Death Knell for FDA's Off-Label Marketing Restrictions?" *Journal of Health & Life Sciences Law*, Vol. 5, No. 2 (February 2012)
- Co-Author, "Government Overpayment: New Risks, New Exposures," *ALM Business Crimes Bulletin* (July 2010)
- "DOJ Limits Criminal Liability for HIPAA Violations: Wet Blanket on Privacy Enforcement, or is DOJ Turning Up the Heat?" *Health Care Compliance Association* (November 2005)

Media

- Quoted in "Decision in 60-day Repayment Rule Case Puts Providers on Alert," by Lisa Schencker in *Modern Healthcare* (August 4, 2015)
- Quoted in "Against the Rule: Provider Groups Criticize CMS Repayment Plan" by Joe Carlson in *Modern Healthcare* (April 23, 2012) (Subscription Required)
- Quoted in "Broward Brouhaha: Ongoing Investigations Bog Down Fla. System" by Joe Carlson in *Modern Healthcare* (February 15, 2010) (Subscription Required)

Speaking Engagements

- Panelist, "Trade Secret Valuation in Criminal Sentencing," NERA Economic Consultings Developments in Trade Secret Litigation Webinar Series (April 21, 2021)
- Co-Presenter, "Due Diligence in Healthcare Transactions: Looking Under the Hood to Avoid Expensive Compliance Disasters," Pennsylvania Bar Institute (PBI) 2019 Health Law Institute, Philadelphia, PA (March 13, 2019)
- Co-Presenter, "Defending Against Claims of Health Care Fraud in the Age of Government 'Big Data' Mining," American Health Lawyers

Association (AHLA) 2017 Fraud and Compliance Forum, Baltimore, MD (October 4, 2017)

- Co-Presenter, "Hospital as Employer: The Role of Employee Leasing Arrangements in Preventing Fraud and Abuse, Misclassification, Joint Employer Liability," PBI 23rd Annual Health Law Institute, Philadelphia, PA (March 8, 2017)
- Co-Presenter, "Mitigating False Claims Act and Consumer Protection Exposure for Retail Pharmacies," American Society for Pharmacy Law's (ASPL) 2014 Developments in Pharmacy Law Seminar, Indian Wells, CA (November 7, 2014)
- Panelist, "Lessons Learned from FirstPlus Financial RICO Defense Victory," Panel sponsored by Federal Bar Association, Criminal Law Committee, Philadelphia, PA (September 19, 2014)
- Co-Presenter, "Voluntary Disclosure: When and Where," HCCA's 18th Annual Compliance Institute, San Diego, CA (March 31, 2014)
- Presenter, "To Disclose or Not to Disclose Compliance Problems: That is the question," PBI's 20th Annual Health Law Institute, Philadelphia, PA (March 14, 2014)
- Co-Presenter, "Complex Stark Implementation and Self-Disclosure," American Health Lawyers Association's (AHLA) Physicians and Hospitals Law Institute, New Orleans, LA (February 5, 2014)
- The Health Care Compliance Association's (HCCA) South Central Regional Annual Conference, "Navigating the Self Disclosure Protocol," Nashville, TN (November 22, 2013)
- The American Conference Institute's Advanced Summit on White Collar Litigation, New York, NY (January 23, 2013)
- Co-Presenter, "Rediscovering First Amendment Protection Strategies for Your Off-Label Marketing Defense," American Conference Institute's 8th Advanced Summit on Off-Label Communications, The Carlton on Madison, New York, NY (June 25-26, 2012)
- "Managing, Defending and Curtailing Whistleblower Allegations Under an Expanded False Claims Act," American Conference Institute's 12th Annual Summit on Reducing the Risks of Sales and Marketing of Medical Devices, Chicago, IL (April 24, 2012) (with Betsy W. Van Hecke Vice President and Chief Legal Counsel, CRDM Division, Medtronic)
- "Off-Label Communications: Evaluating and Revamping Compliance Protocols in the Wake of Unprecedented Settlements," Topic: Managing, Defending and Curtailing Whistleblower and Relator Allegations, American Conference Institute's 7th National Forum, Philadelphia, PA (July 14, 2010)
- "One Thing You Have To Fear Is FERA Itself: Recent Amendments to the Federal False Claims Act and How They Will Impact Future Government Fraud Cases," Institute of Internal Auditors 2010 Spring Conference (April 19, 2010)
- "White Collar Defense Update: Hot Buttons for Healthcare Governance," Business Law and Governance, Fraud and Abuse, and In-House Counsel Practice Groups, Philadelphia, PA (December 16, 2009)
- "A Legal Perspective on Your Liability & Responsibility: How to Maximize Compliance and Minimize Risk of Audit," Word Research Group's 13th Annual Denials Management Meeting, Chicago, IL (May 28, 2009)
- Panelist, "Negotiating Settlements Under The Clean Water Act," Federal Bar Association, Philadelphia, PA (February 12, 2009)
- "Quality of Care Committees: Is Your Institution Meeting Medicare Conditions of Participation?," HCCA's Quality of Care Compliance Conference, Philadelphia, PA (September 29, 2008)
- Moderator, "Investigations in a Changing Global Economy: The Inquiries that Cross Countries and Borders," ACI's 3rd National Conference on

Internal Investigations for the Drug and Device Industries, Philadelphia, PA (June 25, 2008)

- Panelist, "Ethics issues in Qui Tam Litigation," American Bar Association's 7th National Institute on Civil False Claims Act and Qui Tam Enforcement, Washington, D.C. (June 11-13, 2008)
- "Navigate Medicare's RAC and Medical Necessity Maze (How to Maximize Compliance and Minimize Risk of an Audit)," AHA Session Learning Series (June 4, 2008)
- Co-Presenter, "Are You Prepared to Enter the 'Era of Medical Necessity Audits,' And Defend Your Hospital Before the RACs, OIG, & Justice Department?" Audio Webinar Sponsored by Healthcare Financial Management Association ("HFMA") (March 20, 2008) (with Dr. Robert Corrato, President & CEO of Executive Health Resources)
- Moderator, "Best Practices in the Areas of Conducting Compliance Reviews, Deficit Reduction Act Measures, and Risk Assessments," HCCA East Central Annual Program, Pittsburgh, PA (October 12, 2007)
- Panelist, "Corporate Liability, Governance, and Compliance in the Health Care Industry," 11th Annual Compliance Institute of the Health Care Compliance Association, Chicago, IL (April 22, 2007)
- Moderator, "The McNulty Memorandum: A Meaningful Change or The Status Quo Under a New Name?," Mid-Atlantic Regional Committee and the Philadelphia Young Lawyers Division of the ABA White Collar Crime Committee Meeting and CLE Seminar, Post & Schell, P.C., Philadelphia, PA (February 20, 2007) (with The Honorable Patrick L. Meehan, U.S. Attorney, Eastern District of Pennsylvania, Ellen C. Brotman of Montgomery, McCracken, Walker & Rhoads, Lesley B. Fitzgerald of Merck & Co., and Craig D. Margolis of Vinson & Elkins)
- "Document Retention After Arthur Andersen: Can You Ever Destroy A Document?," Pennsylvania Bar Institute's "A Day on Health Law," Philadelphia, PA (October 11, 2006) (with Ronald H. Levine)
- "Ethical Dilemma's of Internal Investigations: The Good, the Bad and the Ugly," American Health Lawyers Association's Fraud & Compliance Forum, Baltimore, MD (September 25-26, 2006)
- "Criminal Enforcement Under HIPAA: Covered Entities, DOJ, and You," Health Care Compliance Association's 10th Annual Compliance Institute, Las Vegas, NV (April 2006)
- Presenter, "Document Retention After Arthur Andersen: Can You Ever Destroy a Document?," Pennsylvania Bar Institute's 12th Annual Health Law Institute (March 15-16, 2006) (with Ronald H. Levine)
- Featured Speaker, Fraud and Compliance Forum: Anti-Kickback and Stark Prosecutions, Sponsored by Glens Falls Hospital, the Warren County Medical Society and Adirondack Medicine, Inc. (October 27, 2005)

Affiliations

- American Health Lawyers Association, Enforcement Subcommittee Co-Chair