

Michael P. Matthews

Partner

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Mike Matthews is a fourth-generation trial and appellate lawyer who litigates False Claims Act, health care, and securities matters in Florida and across the country. With more than 25 years of experience, he has defended individual and corporate clients in a variety of government enforcement and securities litigation matters at the trial and appellate level, including False Claims Act qui tam litigation, health care fraud enforcement and litigation, securities class actions, shareholder derivative actions, SEC enforcement matters, antitrust litigation, white collar criminal matters, and other complex litigation matters.

Mike has served in a variety of leadership positions at Foley, including chair of the False Claims Act Practice, chair of the Tampa Litigation Department, and vice chair of the Government Enforcement Defense & Investigations Practice, of which he is currently a member, along with the firm's Securities Enforcement & Litigation Practice.

In addition, as a member of Foley's Health Care & Life Sciences Sector, Mike has represented individuals and entities in numerous aspects of the health care industry, including managed care/Medicare Advantage, telehealth, medical device manufacturing, pharmaceutical manufacturing, biotechnology, diagnostics, pharmacy and pharmacy benefit management, medical equipment providers, and hospital systems, Accountable Care Organizations, and other health care providers. He has also defended lawyers, law firms, judges, accountants, and accounting firms in malpractice litigation, ethics investigations, Public Company Accounting Oversight Board (PCAOB) proceedings, and securities litigation and government enforcement actions, including the former general counsel of a Fortune 50 company and the former chief financial officer of a Fortune500 company.

Mike has conducted oral argument at the Florida Supreme Court (click to watch the [video clip](#)), where he successfully argued for the reversal of a client's conviction and life sentence based on the trial court's exclusion of another man's confession to the crime, and at the U.S. Court of Appeals for the Eleventh Circuit, where he has argued False Claims Act, death penalty, and other matters. ([Click here](#) to listen to a recent oral

argument in 2022.)

Representative Experience

False Claims Act, Government Enforcement, and Health Care Litigation

Examples of Mike's experience as a False Claims Act lawyer, health care litigator, and government enforcement defense lawyer include the following:

- Represented a former senior officer of a publicly-traded Fortune 500 health care company in a DOJ criminal health care fraud trial and in False Claims Act, SEC enforcement, securities class action, and shareholder derivative litigation.
- Successful oral argument at the Eleventh Circuit to affirm dismissal of False Claims Act claims.
- Successful oral argument of motions to dismiss False Claims Act litigation against a major Florida health care provider, asserting Anti-Kickback Statute violations related to reporting of pharmaceutical rebates and discounts, off-label, and overfill allegations.
- Successful oral argument of a motion to dismiss Anti-Kickback-Statute-based FCA claims against a multinational medical device manufacturer.
- Secured dismissal with prejudice of one of the first-ever False Claims Act cases asserting Accountable Care Organization fraud, for failure to plead that allegedly false diagnoses in medical records to increase ACO shared savings bonuses equate to false claims submitted to the government, as well as the first-to-file bar and failure to plead FCA retaliation.
- Secured dismissal with prejudice of first-ever False Claims Act claims brought against a Medicare Recovery Audit Contractor, on Rule 9(b), failure to plead scienter or conspiracy, and public disclosure bar grounds.
- Represented one of the largest health systems in South Florida in multiple False Claims Act qui tam cases, including alleged medical necessity, Stark law, Anti-Kickback Statute, whistleblower retaliation, and other alleged FCA violations.
- Represented a specialty pharmacy company in a DOJ investigation regarding pharmaceutical manufacturers.
- Represented a major Florida health care provider in an antitrust class action and a DOJ antitrust enforcement matter.
- Represented a health care provider in a DOJ investigation and False Claims Act qui tam whistleblower litigation related to telehealth.
- Defeated relators' U.S. Supreme Court petition for writ of certiorari in False Claims Act litigation.
- Represented a senior officer of a Florida managed care company in a False Claims Act and criminal investigation by DOJ relating to Medicare Advantage risk adjustment data validation and other issues.
- Represented a Fortune 500 company in an internal investigation of potential false claims or false statements to the federal government in a defense industry matter.

Securities Litigation and Enforcement, Professional Liability and Other Litigation

Mike's engagements in securities and shareholder litigation and enforcement matters and in professional liability matters include representations of a number of public companies and senior officers and directors of domestic and multinational companies. Mike also conducts internal investigations on behalf of corporations, audit committees, special litigation committees, and boards of directors.

Examples of Mike's experience in this area include the following:

- Successful oral argument against certification of a proposed class period in a securities class action against a publicly-traded health insurance company, one of only a handful of courts nationwide to cut a class period back to the initial filing, saving several hundred million dollars in potential damages.
- Successful oral argument for dismissal of putative Section 10(b) securities class action litigation for failure to plead scienter, loss causation, and falsity.
- Successful oral argument against a motion for preliminary injunction to stop an M&A transaction in a putative securities class action.
- Successful oral argument to stay securities class action litigation pending foreign securities proceedings.
- Represented a former senior officer of one of the world's largest publicly-traded managed care companies in SEC enforcement, securities class action, and shareholder derivative litigation.
- Secured dismissal with prejudice of a shareholder suit against a minimum-support-to-sue bylaw (see "Shout-Out: Foley Wins Dismissal In Case That Could Re-Shape Shareholder Suits," *AmLaw Litigation Daily*, October 18, 2015).
- Represented a major publicly-traded homebuilding company in actions alleging securities fraud in Florida federal and state court.
- Represented a publicly-traded financial services company in a series of putative shareholder class actions in Florida state and federal court.
- Represented a member of a board of directors of a biotechnology company in connection with an SEC enforcement investigation into alleged insider trading.
- Conducted an internal investigation for an audit committee relating to an SEC Division of Enforcement investigation.
- Conducted an internal investigation for a special litigation committee, resulting in resolution of shareholder derivative litigation.
- Represented major accounting firms in auditor liability malpractice cases and PCAOB proceedings.
- Successful oral argument of motions to dismiss in RICO and legal malpractice litigation.
- Represented judges in judicial ethics investigations, as well as First Amendment litigation, against a state supreme court for a judge barred from presiding over death penalty cases for attendance at prayer vigil.
- Among other complex litigation matters, Mike and his colleagues at Foley won a significant civil rights jury verdict holding that destruction of an affordable housing complex would have a discriminatory

effect on minority and disabled residents of the complex; Mike also has trial experience in a range of intellectual property matters, including trade secret misappropriation, copyright infringement, and equitable ownership of patents.

Prior Experience

- Law Clerk, Honorable J.P. Stadtmueller, U.S. District Court for the Eastern District of Wisconsin
- Represented death-row prisoners at the Equal Justice Initiative in Montgomery, Alabama
- Previously worked at Williams & Connolly in Washington, D.C., where his practice focused on white collar criminal defense and commercial litigation

Awards and Recognition

- Selected by his peers for inclusion in *The Best Lawyers in America*® in the field of Criminal Defense: White-Collar (2013-present); also selected for inclusion in *Super Lawyers*® for many years
- Received the “Pro Bono Service and Excellence Award” from the Federal Bar Association, Tampa Bay Chapter, in recognition of excellence in service to disadvantaged citizens of the Middle District of Florida
- Recognized by the Thirteenth Judicial Circuit Pro Bono Committee for his pro bono work, including political asylum immigration matters, death penalty and other criminal appeals, and civil rights litigation
- Elected as a Fellow of the American Bar Foundation, an honorary organization of attorneys, judges, law faculty, and legal scholars
- Received a Tampa Bay Business Journal “Up & Comers” award, which recognizes rising professionals in the Tampa Bay business community
- Received an “Outstanding Volunteer” award for his work with a regional economic development initiative

Affiliations

- Served as president and a member of the board of directors of the Federal Bar Association, Tampa Bay Chapter, and as chair of the Qui Tam False Claims Act Committee
- Taught as an adjunct professor at Marquette University Law School
- Served on the Local Rules Committee for the U.S. District Court for the Eastern District of Wisconsin
- Published numerous articles on constitutional, health care, and criminal law
- Served as the editor of the “Business Crimes Hotline,” published monthly in the *Business Crimes Bulletin*
- Served on the MBA Judicial Selection Committee, which evaluates candidates for judicial appointments
- Mike is also the creator and developer, along with Foley’s software development team, of the firm’s proprietary *Case Appraiser* software program, a quantitative case assessment tool for valuing litigation matters

Presentations and Publications

- Co-Presenter with Eleventh Circuit Judge Charles R. Wilson and others, “Preserving Issues for Appeal,” Federal Bar Association, Tampa, FL (May 16, 2023)
- Presenter, “Recent Developments in False Claims Act Retaliation and Florida Whistleblower Act Law,” South Florida Not-for-Profit Healthcare General Counsel Roundtable, Miami, FL (March 3, 2022)
- Presenter, “Risk Adjustment Compliance Trends and Perspectives – Shades of Gray,” Audit & Compliance Workshop, Tampa, FL (February 3, 2020)
- “Qui Tam Roundtable,” Federal Bar Association Qui Tam Section, Tampa, FL (November 30, 2018)

Sectors

- [Health Care & Life Sciences](#)
- [Medical Devices](#)
- [Payor Provider Convergence](#)
- [Pharmaceuticals](#)
- [Providers of Health Care Services](#)
- [Racial Justice & Equity](#)

Practice Areas

- [Commercial Litigation](#)
- [Government Enforcement Defense & Investigations](#)
- [IP Litigation](#)
- [Litigation](#)

Education

- University of Michigan (J.D., magna cum laude, 1996)
 - Order of the Coif
- Georgetown University (B.A., magna cum laude, 1993)

Admissions

- Florida
- District of Columbia
- Wisconsin
- Illinois
- U.S. Supreme Court
- U.S. Courts of Appeals:
 - Eleventh Circuit
 - Seventh Circuit
- U.S. District Courts:
 - Southern, Middle, and Northern Districts of Florida
 - Eastern District of Wisconsin
 - District of Colorado

- Eastern and Western Districts of Arkansas
- U.S. Court of Federal Claims