

## Lawrence M. Kraus

### Partner

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Larry Kraus is a seasoned litigator, trial advocate, and trusted adviser who brings more than 30 years of litigation experience to solving complex business issues for clients. Larry is the Litigation practice group leader for the firm's Atlantic region (Boston, New York City, and Washington, D.C. offices) and a member of the firm's Government Enforcement Defense & Investigations Practice and the Health Care and Life Sciences Sector. Larry also serves as the National Chair of the firm's Pro Bono Committee and of the firm's Asylum and Immigration Working Group.

Larry's practice focuses on federal False Claims Act (FCA) investigations and litigation, complex health care matters, and a wide range of other complex commercial litigation. He counsels corporations and individuals across the country in a wide range of industries, in federal and state trial and appellate courts, and in arbitrations. He has deep health care litigation experience, including a wide variety of matters involving defense of federal FCA actions involving health care entities as well as managed care disputes, peer review proceedings and medical staff issues, physician group practice disputes, and proceedings before medical licensing boards.

Lawrence Kraus (Larry) serves as the Practice Group Leader for the Firm's Business Litigation Atlantic Region (Boston, NY, Washington, D.C., and Raleigh). He has tried numerous cases in federal and state courts over his 30-plus year career, and he has argued appeals in the First, Second, and Sixth Circuits, as well as the Massachusetts Appeals Court. Larry has also tried numerous multi-day arbitrations and medical peer review proceedings. There is a story to tell in every trial, and winning rests on recognizing the strengths and weaknesses of the legal principles, the evidence, and — especially — the witnesses. Larry believes that litigation should not take precedence over business objectives, and he is keenly aware of how to conduct discovery, motions, mediation, and negotiation to leverage evidence to achieve the best possible business outcome. After all is said and done, the right answer is sometimes simple: "Let's try this thing."

### Representative Experience

## **False Claims Act**

Larry's practice focuses on defending companies faced with complex federal FCA investigations and litigation. Some of his representative clients and matters in FCA defense include:

- Durable medical equipment provider in FCA and retaliation claims in the Southern District of Alabama (substantive claims dismissed on Motion to Dismiss)
- National health care providers in nationwide federal FCA investigations out of the Southern District of New York
- Multistate cancer treatment providers in FCA claims in the Eastern District of New York
- National Energy Employee Occupational Injury Compensation Act provider in federal FCA investigations out of the Middle District of Florida and the Southern District of Ohio
- National Independent Diagnostic Testing Facility in FCA claims in the District of Massachusetts, regarding provision of blood coagulation factor testing (dismissed on Motion to Dismiss)
- Claims alleging fraudulent billing against a national ambulance service provider
- National health insurer in FCA suit alleging fraud in connection with a federal Employees Health Benefits Act contract with the U.S. Office of Personnel Management, resulting in a grant of summary judgment for the defendant
- Massachusetts quasi-public authority in FCA claims regarding the Housing and Urban Development Program, resulting in a grant of summary judgment motion and successful appeal

## **Health Care and Complex Business Disputes**

Larry has deep experience in litigating other complex health care matters, including managed care disputes, peer review proceedings and medical staff issues, physician group practice disputes, and proceedings before medical licensing boards. Larry also litigates a wide range of other commercial litigation in federal and state trial and appellate courts, and in arbitrations, including:

- Defended ecommerce consulting company against former employee's claims to exercise stock options
- Represented the founders of a software company against the acquirer on an earn-out dispute (multiday arbitration)
- Represented the buyer of an institutional pharmacy asserting breaches of reps and warranties against the seller
- Action on behalf of a national health care provider against a developer of customized software
- Defense of a physician being disciplined by a prominent Boston-area hospital (multiday peer review proceeding)
- Action on behalf of a software technology company against a developer of customized software
- Publicly-traded and privately-held corporations in a variety of contract, business tort, derivative, and securities litigation
- Real estate developers, landlords, and tenants in complex real estate disputes
- Individuals under investigation by the United States Department of Justice for alleged health care-related criminal violations

- Individuals involved in limited partnership and close corporation disputes
- Parties in sophisticated employment matters, including non-competition and trade secret actions and injunctions

### **Selected Reported Decisions**

- *Li v. Teikametrics, Inc.*, 2023 WL 2919835 (D. Mass. Mar. 8, 2023) (granting summary judgment to defendant on stock option claims)
- *U.S. ex rel. Chorchos v. American Medical Response, Inc.* (2d Cir. 2017) (deciding Second Circuit Rule 9(b) standard for FCA claims)
- *ACT for Health v. United Energy Healthcare Workers, Inc.* (6th Cir. 2019) (successful defense of appeal of complete dismissal of claims concerning the Energy Employees Occupational Injury Claims Program Act)
- *U.S. ex rel. K&R Limited Ptp. v. Mass. Housing Finance Agency*, 530 F.3d 980 (D.C. Cir. 2008)
- *Ouch v. Federal National Mortgage Assoc.*, 799 F. 3d 62 (1st Cir. 2015)
- *Back Bay Spas, Inc. v. 411 Stuart Marketing, LLC*, 688 F.3d 61; (1st. Cir. 2012)

### **Awards and Recognition**

- Selected for inclusion in Massachusetts Super Lawyers® (2004-2022), only 5% of the lawyers in the state were selected
- Peer Review Rated as AV® Preeminent™, the highest performance rating in Martindale-Hubbell's peer review rating system
- Received Foley's Carl Hitchner Mentor of the Year award in recognition of his commitment to mentoring (2017)

### **Community Involvement**

- Active in Temple Beth Zion in Brookline, Massachusetts, where he currently serves as president of the board. He has served on the board since 2017 and previously as chair of the board from 2005-2012.

### **Presentations and Publications**

- "Loper Bright False Claims Act Developments," *Health Care Law Today* (October 15, 2024)
- "Supreme Court Declines to Resolve Circuit Split on FCA 'Objective Falsity' Issue," *Health Care Law Today* (February 23, 2021)
- "Government Seizure of Medical Supplies from Health Care Providers – Is It Legal?," *Foley Coronavirus Resource Center* (May 15, 2020)
- "Applied for a PPP Loan? Simple Steps Now to Avoid Government Scrutiny Later," *Foley Coronavirus Resource Center* (May 6, 2020)
- "Ninth Circuit Holds an 'Objective Falsehood' Is Not Required for Violation of False Claims Act," *Health Care Law Today* (April 20, 2020)
- "Five Do's and Don'ts for an Effective Virtual Mediation," *Foley Coronavirus Resource Center* (April 14, 2020)

- “Anti-Fraud Enforcement in the Coronavirus Era,” *Health Care Law Today* (March 23, 2020)
- “Third Circuit Creates Budding Circuit Split in *United States v. Care Alternatives*, Ruling That ‘Objective Falsity’ Is Not Required Under FCA,” *Health Care Law Today* (March 10, 2020)
- “Skilled Nursing Facilities: 2020 Target Area for DOJ under False Claims Act,” *Health Care Law Today* (March 9, 2020)
- “Can A Whistleblower Release Her Retaliation Claim Under The False Claims Act?,” *Foley Insights*, (October 8, 2019)
- “AseraCare 11th Circuit Case Holds Differences in Hospice Clinical Opinions Are Insufficient to Demonstrate Falsity Under the FCA,” *Health Care Law Today* (September 11, 2019)
- “Supreme Court Maximizes Statute of Limitations for Relators Suing Under the False Claims Act,” *Health Care Law Today* (May 31, 2019)
- “New DOJ Guidance on Cooperation in False Claims Act Cases,” *Foley Insights* (May 10, 2019)
- Speaker, “U.S. Supreme Court’s *Escobar* False Claim Act Ruling – Trends and Developments Since June 2016 Decision,” Federal Bar Association (June 13, 2018)
- “Leaked DOJ Memo Indicates New Government Focus on Dismissing Meritless False Claims Act Cases,” *Foley Insights* (Jan. 29, 2018)

## Pro Bono

- Serves as Chair of Foley’s National Pro Bono Committee.
- Serves as the chair of the firm’s Pro Bono Asylum and Immigration Working Group and as the Boston office chair of the firm’s Pro Bono Committee
- Has represented an evangelical pastor from Cameroon, a Syrian family threatened for non-violent democracy efforts, a tortured political prisoner from Tanzania, a gay man from Uganda, a Salvadoran woman whose family was targeted by violent gangs, a Sudanese professor who was tortured after speaking out on Darfur, a political activist from Cameroon, and a political dissident from Haiti.
- Under Lawrence’s leadership, Foley’s Boston office was honored as the 2020 “Firm of the Year” by Boston’s Political Asylum and Immigration Representation (PAIR) Project. In addition, in 2016 Lawrence was the first recipient of the PAIR Project’s “Sarah B. Ignatius Award for Outstanding Achievement.” He was recognized as PAIR’s “Pro Bono Mentor of the Year” in 2010.

## Sectors

- [Health Care & Life Sciences](#)
- [Providers of Health Care Services](#)
- [Racial Justice & Equity](#)

## Practice Areas

- [Commercial Litigation](#)
- [False Claims Act](#)
- [Government Enforcement Defense & Investigations](#)
- [Litigation](#)

- [Trade Secret Noncompete Litigation](#)
- [eDiscovery & Data Management](#)

## Education

- Harvard Law School (J.D., cum laude, 1993)
  - Winner, 1992 Ames Moot Court competition
- Brandeis University (B.A., magna cum laude, 1984)
  - Islamic and Middle Eastern Studies and Sociology
- American University in Cairo in 1983

## Admissions

- U.S. Supreme Court
- U.S. Courts of Appeals
  - First Circuit (argued), Second Circuit (argued), Fourth Circuit, Sixth Circuit (argued), and D.C. Circuit
- U.S. District Court, District of Massachusetts
- State of Massachusetts