

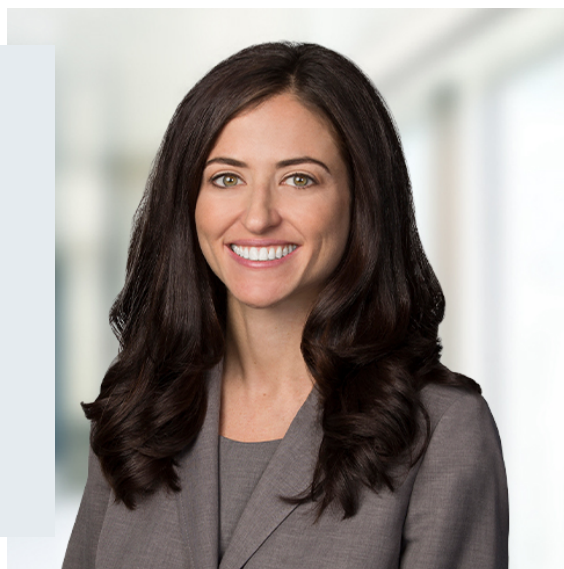
## Lori Rubin Garber

### Partner

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Lori Garber is a Washington, D.C.-based government enforcement defense lawyer, health care litigator, and False Claims Act attorney. She is chair of the firm's national Government Enforcement Defense & Investigations Practice Group. Lori defends clients nationwide in government investigations and enforcement actions, conducts internal investigations particularly as related to allegations of fraud or other wrongdoing, and files and defends health care litigation. Her clients are often health care industry participants, government contractors, and other recipients of government funding.

### **Health Care Litigation, Investigations, and Enforcement Defense**

Lori brings health care experience to investigations and litigation, particularly in matters initiated by or otherwise adverse to the government and whistleblowers. Her health care sector clients have included hospitals, health systems, physician groups, pharmacies, medical laboratories, emergency medical services providers, pharmaceutical manufacturers, pharmaceutical care services companies, durable medical equipment suppliers, medical device manufacturers, grant recipients, digital health providers, private equity funds, skilled nursing facilities, management companies, and consulting firms.

The matters Lori handles frequently arise under the False Claims Act, the Anti-Kickback Statute, the physician self-referral prohibition (the Stark law), the Administrative Procedure Act, and various state law Consumer Protection Act statutes, and from whistleblower or company concerns about compliance or potential wrongdoing.

### **COVID-19 Fraud Litigation, Investigations, and Enforcement Defense**

Lori's False Claims Act experience includes conducting investigations and responding to government inquiries regarding various COVID-19 relief programs. She has responded to Department of Justice Civil Investigative Demands on behalf of several entities related to loans issued through the Small Business Administration's Paycheck Protection Program.

## **Government Contract Litigation, Investigations, and Enforcement Defense**

Lori's False Claims Act practice extends to government contractors. She has responded to multiple Civil Investigative Demands and subpoenas to government contractors in last several years, including one in which she represented a global government contractor in a multiyear investigation by multiple federal agencies and achieved a government declination of the case pre-litigation. In addition, she has defended False Claims Act cases in litigation on behalf of government contractors. She also has experience defending contractors in Anti-Terrorism Act litigation.

## **Investigations and Litigation About Data Security and Financial Improprieties**

Lori conducts internal investigations, on behalf of companies and board committees, to investigate concerns of fraud, employee misconduct, data security, and billing irregularities, and she investigates and litigates a multitude of cases, particularly as related to allegations of wrongdoing.

## **Website Accessibility**

In addition, Lori counsels and defends clients from allegations of website noncompliance with the Americans with Disabilities Act (ADA) and state accessibility laws. She has negotiated dozens of resolutions to these cases in this uncertain area of law.

## **Representative Experience**

### **Health Care Enforcement Defense**

- Defended a national durable medical equipment supplier against a multiyear U.S. Department of Justice (DOJ) investigation into allegations that the company violated the False Claims Act. Lori's work included conducting an intensive internal investigation, coordinating the response to multiple Civil Investigative Demands and related, extensive negotiations with the government, and successfully resolving DOJ and whistleblower claims without her client having to step foot in a courtroom.
- Successfully defended a nonprofit medical center and a related pharmacy against allegations they violated the False Claims Act, Anti-Kickback Statute, and Stark Law. Won motion to dismiss in federal court, achieving dismissal of the case with prejudice.
- Represented a national medical laboratory in federal court against allegations that the laboratory violated the False Claims Act and Anti-Kickback Statute. Lori's work included leading the litigation against the whistleblower, including a partially successful motion to dismiss, and successfully resolving the matter with the whistleblowers and federal and state governments in mediation.
- Responded to multiple federal and state government subpoenas and inquiries related to the opioid crisis and successfully defended client in related investigations.
- Counseled clients on potential litigation regarding state laws in the post-Dobbs era.

### **Other Health Care Litigation**

- Successfully challenged a Medicare rate reduction promulgated by the United States Department of Health & Human Services (HHS) in federal court, resulting in a remand to the agency and a related

increase in payments to hospitals nationally.

- Successfully challenged HHS approval of a Medicaid state plan amendment in federal court, achieving vacatur of HHS's approval.
- Intervened in federal court litigation on behalf of a pharmaceutical manufacturer when its competitor challenged Food & Drug Administration agency action and inaction impacting the client. Successfully reached resolution.
- Leads the Foley team that serves as lead counsel to, and regularly advises, a national hospital trade association on a variety of matters in the health care industry.

### **Government Contract Litigation, Investigations, and Enforcement Defense**

- Represented a global government contractor in a multiyear investigation by multiple federal agencies and achieved a government declination of case pre-litigation.
- Defended a global government contractor in False Claims Act litigation in federal court against a whistleblower until a successful case resolution was reached.

### **Investigations and Litigation About Data Security and Financial Improprieties**

- Conducted an internal investigation on behalf of a large multinational company related to misappropriation of company funds and potential misappropriation of sensitive business data.
- Conducted an internal investigation on behalf of a physician group related to competitor allegations of stolen business data.
- Conducted an internal investigation on behalf of energy company related to suspected improper financial transactions.

### **Awards and Recognition**

- Named to DCA Live's 2023 Emerging Women Leaders in Private Practice list
- Selected for inclusion to the Washington D.C. Rising Stars list by *Super Lawyers Magazine* (2014–present)
- Firm selected for inclusion in Lex Machina's False Claims Act Litigation Report 2021 as a Top 10 Most Active Defendants' Law Firms by Cases Filed from 2016 to 2020 (Oct. 2021)

### **Presentations and Publications**

- Co-author, "[New False Claims Act Stats Show Jump in DOJ-Driven Investigations](#)," *Health Care law Today* (February 23, 2024)
- Co-author, "[What Every Multinational Company Should Know About . . . The False Claims Act](#)," *Manufacturing Industry Advisor* (February 7, 2024)
- Author, "[Health-Care Fraud Scrutiny Heats Up For Companies, Providers](#)," *Bloomberg Law* (January 2, 2024)
- Moderator, "We Can Handle the Truth: Let's Meet the United States Health Law Enforcers," Association of Corporate Counsel Annual Meeting (Oct. 25, 2023)

- Quoted, “Supreme Court Decision Could Make It Easier to Dismiss Frivolous Whistleblower Claims,” *Compliance & Policy Report*, Vol. 1, No. 7 (September 2023)
- Author, “[False Claims Act Supreme Court News: Government Dismissal Authority “Not a Close Call;” Constitutionality of Qui Tam Provisions May Be Closer Call,](#)” *Foley Insights* (June 20, 2023)
- Author, “[Supreme Court Overturns FCA Scienter Cases,](#)” *Foley Insights* (June 1, 2023)
- Author, “[Growing Scrutiny of Private Equity in Health Care,](#)” *Foley’s Health Care Law Today* (March 29, 2023)
- Author, “[Supreme Court Changes Its Mind, Decides Not To Mire into Attorney Client Privilege,](#)” *Foley Insights* (January 24, 2023)
- Author, “[Supreme Court Considers Extent to which Business Communications Are Protected By the Attorney Client Privilege,](#)” *Foley Insights* (January 12, 2023)
- Author, “[Court Calls Underlying Legal Standards “No Model of Clarity” but Allows False Claims Act Case To Proceed Anyway,](#)” *Foley’s Health Care Law Today* (Jan. 11, 2023)
- Author, “[FCA Managed Care Case Update: A Court’s View of ICD Guidelines in Risk Adjustment Cases,](#)” *Foley’s Health Care Law Today* (Dec. 27, 2022)
- Author, “[False Claims Act: Prediction on Supreme Court Ruling on Government Dismissal Authority,](#)” *Foley’s Health Care Law Today* (Dec. 15, 2022)
- Author, “[Top 10 Government Enforcement Updates for In-House Counsel in Health Care,](#)” *Association of Corporate Counsel* (Dec. 6, 2022)
- Author, “[Managed Care & the FCA: Are Courts Getting It Right?,](#)” *National Law Review* (Sep. 21, 2022)
- Panelist, “[How Do Healthcare Innovations Lead to New Enforcement Risks?,](#)” *Physician Legal Issues: Healthcare Delivery & Innovation Conference, American Bar Association* (Sep. 15, 2022)
- Panelist, “[COVID-Related Enforcement Activity,](#)” *ACC Online Education, Association of Corporate Counsel* (Sep. 7, 2022)
- Panelist, “[Current Legal Risks for Government Contractors,](#)” *FORVIS Issues in Focus Webinar* (June 7, 2022)
- Author, “[California Appellate Court Holds Plaintiffs in Website Accessibility Challenges Must Have “Bona Fide Intent” To Use Services,](#)” *Foley & Lardner LLP Insights* (October 8, 2021)
- Author, “[Rising Importance of Sub-Regulatory Guidance in False Claims Act Cases,](#)” *Foley’s Health Care Law Today* (August 26, 2021)
- Author, “[Hidden Implications of Current Trends in Enforcement,](#)” *Healthcare Business Today* (August 20, 2021)
- Author, “[A Target on Telehealth: Government Action Against Telehealth Fraud in the Wake of COVID-19,](#)” *American Health Law Association* (July 14, 2021)
- Author, “[The Risks of ‘Swapping’ for Durable Medical Equipment,](#)” *McKnight’s Long-Term Care News* (April 14, 2021)
- Author, “[Anti-Fraud Enforcement in the Coronavirus Era,](#)” *Foley’s Coronavirus Resource Center* (March 23, 2020)

## Sectors

- [Health Care & Life Sciences](#)

## Practice Areas

- [Business Litigation & Dispute Resolution](#)
- [False Claims Act](#)
- [Government Enforcement Defense & Investigations](#)
- [Litigation](#)

## Education

- Duke University School of Law (J.D., 2010)
- University of Virginia (B.A., with distinction, 2007)

## Admissions

- District of Columbia
- Virginia
- U.S. Court of Appeals for the District of Columbia Circuit
- U.S. District Courts:
  - District of Columbia
  - District of Maryland
  - Eastern District of Virginia
  - Western District of Virginia
  - Western District of New York