

Byron J. McLain

Partner

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Byron McLain is a Los Angeles-based litigator and white-collar criminal defense lawyer skilled at helping clients avoid investigations and prosecutions or discretely minimizing the negative impact when they do occur. He is a partner in the firm's Government Enforcement Defense & Investigations, and Securities Enforcement & Litigation Practices, as well as a member of the Environmental, Social, and Corporate Governance (ESG) Team.

Byron investigates, litigates, and tries complex criminal and civil cases, including those involving government investigations. He also conducts corporate internal investigations, often successfully persuading the government not to pursue investigations of his clients. He is widely recognized for his ability to address clients' concerns quickly and efficiently, providing concrete solutions addressing not only the legal issues involved, but also the potential impact on a client's business. He is strongly adept at articulating complex issues in layman's terms across industries and at humanizing corporate clients, so they are relatable as witnesses during interviews and at trial.

Byron helped me and my fellow Board members navigate some very tricky and sensitive legal issues. I was so impressed with Byron's ability to relate personally to the employees at our company during meetings and to identify the key issues quickly for analysis. He was very professional and sensitive to protecting our core business interests.

– Bill Nance, Board Chairman of the Audit and Finance, Compensation, and Nominating and Governance Committees, Comstock Mining

As a former federal prosecutor in Los Angeles, Byron has leveraged his extensive knowledge and broad network of relationships to achieve the best results for his clients in a very discrete manner. He also advises clients concerning the distribution and marketing of non-fungible tokens (NFTs) and cryptocurrencies to best avoid these assets from being construed as securities by the Securities and Exchange Commission (SEC).

He works closely with the firm's Health Care, Cannabis, and Sports & Entertainment Industry Teams, and serves as co-chair of the Racial Justice and Equity Practice Group.

Byron has leveraged his extensive knowledge and broad network of relationships to achieve the best results for me and my company. He is also always available whenever I need to discuss legal issues with him at any point of time. Byron also is strongly adept at articulating complex issues in layman's terms across industries and at understanding the business impact of the legal advice that he provides. Byron is a phenomenal attorney and I recommend him to all of my business colleagues for legal representation.

– Alexi Solit, Managing Partner, Metamatic

Professional Experience

Byron previously served as deputy chief of the General Crimes Section in the U.S. Attorney's office (USAO) for the Central District of California, where he co-supervised a training section of more than 50 assistant U.S. attorneys. He also served as a prosecutor in the Major Frauds Section of the Criminal Division, where he investigated and prosecuted white collar crime. As a fraud lawyer at the USAO Los Angeles location, he has tried many criminal cases to jury verdict and argued cases before the Ninth U.S. Circuit Court of Appeals. His experience includes navigating criminal and civil allegations concerning health care fraud, securities law violations, false claims, kickbacks, wire and mail fraud, tax conspiracy fraud, movie investment fraud, obstruction of justice, marijuana/cannabis distribution, and Paycheck Protection Program (PPP) loan fraud.

Byron has extensive knowledge of the health care claims and reimbursement industry. He served as the USAO's health care fraud coordinator, where he evaluated health care-related False Claim Act (FCA) civil claims and determined whether criminal investigations should be initiated. He coordinated with other assistant U.S. attorneys and investigative agencies to identify the USAO's top priority cases in home health care, hospice, prescription drugs, and skilled nursing facility care. He also worked with the U.S. Department of Justice's local Medicare Fraud Strike Force and assisted with the coordination and organization of its annual national sweep of health care criminal cases.

When our business was unexpectedly faced with a major legal issue, I immediately reached out to Byron for his legal acumen. He was great! He is a very polished, calm, and confident lawyer who helped my team navigate tricky legal issues quickly and efficiently.

– Cynthia Patton, General Counsel, Verily Life Sciences

Representative Experience

Health Care

- Represented a medical provider as a potential victim in a multifaceted money laundering and fraud scheme investigation involving the sale of alleged counterfeit medical supplies during the COVID-19 pandemic.

- Represented a hospital as a potential witness in an investigation of a third-party company concerning its investment in multiple clinical trials.
- Conducted an internal investigation for a health care company regarding federal criminal allegations of a PPP loan fraud scheme by a former employee and the potential misappropriation of company resources.
- Represented a health care services company in a *qui tam* investigation and avoided any recommendation of civil or criminal charges from the U.S. Department of HHS-OIG to the U.S. Attorney's Office in Chicago.
- Represented a health care provider in a criminal False Claims Act matter relating to billing and claims for alleged medically non-reimbursable treatment.

Cryptocurrency and NFTs

- Represented a client defending itself against a Securities and Exchange investigation related to the production, marketing, and distribution of certain NFTs.
- Represented a client that seeks to create a NFT exchange based outside the United States and to avoid the jurisdiction of the Securities and Exchange Commission.

General Government Investigations

- Conducted an internal investigation for a mining company regarding the alleged misappropriation of company funds, employee harassment, wage and hour violations, potential tax violations, and successfully avoided any associated SEC investigation for civil or criminal liability against client.
- Conducted an internal investigation for a not-for-profit company alleged to have mishandled and misappropriated tens of millions of dollars in donations.
- Conducted an internal investigation for a food company related to alleged accounting irregularities, employee harassment allegations, and wage-and-hour claims concerning its Mexico operations.
- Represented a potential target in a Ponzi scheme and successfully avoided any charges against client from the U.S. Attorney's Office in Los Angeles.
- Represented a webhosting company executive as a potential target in a grand jury investigation involving allegations of bank fraud, wire fraud, other criminal offenses and successfully avoided any charges against client from the U.S. Attorney's Office in Boston.
- Represented a potential witness in a multifaceted bankruptcy fraud scheme, involving the concealment of tens of millions of dollars from the U.S. government and creditors.

Awards and Recognition

- Named DEIA Visionary by the *Los Angeles Times* (2023)
- *California Lawyer*, Attorney of the Year (2023)
- *Los Angeles Business Journal*, Top 100 Lawyers List (2022)
- *Los Angeles Business Journal*, Top Minority Attorney in Los Angeles (2020)
- Century City Bar Association, White Collar Lawyer of the Year Award (2020)

Affiliations

- 2019 President and Lifetime Member, John M. Langston Bar Association
- Board of Trustees, NALP Foundation
- Board of Trustees, Charles Drew University Medical Center
- Board director, Harvard Law School Association Black Alumni Network
- Past Board member, Bet Tzedek Legal Services
- Past Board member, Los Angeles County Bar Association Judicial Appointments Committee
- Lifetime member, Harvard Club of Southern California
- Lifetime member, Black Entertainment & Sports Lawyers Associations (BESLA)
- Member, Association of Business Trial Lawyers
- Member, American Bar Association
- Member, National Bar Association
- Member, American Inns of Court
- Co-chair, Jack and Jill, Inc. – Father's Auxiliary Group, Los Angeles chapter
- Member, Central District of California Standing Committee on Attorney Discipline

Presentations and Publications

Health Care

- Moderator, “Meet and Greet Panel Discussion with U.S. Attorney E. Martin Estrada and Federal Public Defender Cuauhtemoc” (November 28, 2022).
- Co-author, “Employee charged with COVID relief fraud? Questions for GCs,” *Daily Journal* (May 14, 2021).
- Co-author, “Proving Intended Loss in Criminal Health Care Cases,” *Daily Journal* (March 4, 2019).

Cryptocurrency and NFTs

- Panelist, “Regulatory Implications in the NFT and the Metaverse Spaces,” Beverly Hills Bar Association webinar (March 25, 2022).
- Moderator, “NIL and the Shifting Legal Landscape of College Sports,” Foley & Lardner Webinar (November 9, 2021).
- Panelist, “Minting & Selling an NFT – Live Demo & Legal Analysis,” Foley & Lardner Webinar (September 14, 2021).
- Panelist, Intellectual Property Rights and NFTs and Best Practices for Licensing Commercial Technical Data & Software to the US Government (“Are NFTs a Security?”), National Bar Association Conference (July 25, 2021).

General Government Investigations

- Co-author, “DOJ Warns White Collar Bar it is Coming After Individuals,” *Foley Insights* (March 7, 2022).
- Panelist, “Best Practices for Crisis Management and Government Investigations,” National Bar Association Commercial Law Section Conference (February 25, 2022).

- Speaker, “Arguing Motions: Tips for a Strong Oral Argument,” 2022 Foley & Lardner Motion Practice Workshop (February 28, 2022).
- Panelist, “White Collar Investigations,” Black In House Counsel Network Seminar (October 21, 2021).
- Co-author, “Should Law Firms Worry About Civil Liability From Their PPP Loans?,” *Daily Journal* (April 13, 2021).
- Co-author, “Five Developments Identified in Criminal and Civil Enforcement of PPP Loans,” *Foley Insights* (March 17, 2021).
- Author, “Top 10 tips for preparing and presenting your opening statement at trial,” *Daily Journal* (February 19, 2020).

Other

- Speaker, “Righting a Wrong: The Return of Bruce’s Beach,” Private Webinar (February 27, 2024)
- Panelist, “ESG in the Legal Spotlight: Challenges and Strategies for Modern Businesses,” National Bar Association Commercial Law Section in San Antonio, Texas (February 17, 2024)
- Speaker, “The Future of Affirmative Action & DEI Programs,” *Legal Lens*, KBLA1580am Radio (February 10, 2024)
- Panelist, “The Status of Federal and State ESG Laws,” Foley & Lardner Webinar (December 13, 2022).
- Co-author, “The FTC Initiates Rare Enforcement Action in Case Against Franchisor Burgerim,” *Foley Insights* (February 24, 2022).

Sectors

- [Cannabis](#)
- [Digital Assets, Web3 & NFTs](#)
- [Health Care & Life Sciences](#)
- [Manufacturing](#)
- [Non-Fungible Tokens \(NFTs\)](#)
- [Pharmaceuticals](#)
- [Racial Justice & Equity](#)
- [Sports & Entertainment](#)
- [Sustainability & Product Stewardship](#)

Practice Areas

- [Environmental, Social, and Governance \(ESG\)](#)
- [Government Enforcement Defense & Investigations](#)
- [Litigation](#)
- [Securities Enforcement & Litigation](#)

Education

- Harvard Law School (J.D., 2007)
- Harvard University (A.B., cum laude, 2000)

Admissions

- California
- U.S. District Court for the Central District of California
- U.S. District Court for the Southern District of California
- U.S. District Court for the Northern District of California
- U.S. District Court for the Eastern District of California
- U.S. Circuit Court of Appeals for the 9th Circuit