

David W. Simon

Partner

dsimon@foley.com

Milwaukee
414.297.5519

Washington, D.C.
202.945.6033



Government Enforcement Defense & Investigations Practice Group Vice Chair David W. Simon focuses his practice on conducting domestic and international internal investigations to preempt or mitigate actions taken by the U.S. Department of Justice, the Securities and Exchange Commission, and other enforcement agencies. He successfully defends companies and senior executives in enforcement actions and litigation with the government, and he delivers practical regulatory advice and builds effective corporate compliance programs to help avoid enforcement actions in the first place.

David is experienced in guiding corporate boards and company management through challenging government enforcement matters, recognizing that corporate compliance problems are fundamentally business problems that require business-centric solutions. Holding an EMBA degree from the University of Oxford, he puts legal advice in the context of broader strategic business issues.

Global Problems, Global Solutions

David is a defense lawyer who is adept at assembling and leading global teams of professionals to provide solutions to the potentially catastrophic financial and reputational threats presented by a government enforcement action. He has substantial experience dealing with U.S. regulators, and he understands their expectations.

In the course of helping companies successfully manage crises arising outside of the United States, David has conducted investigations all over the world and has built deep relationships with top-caliber business-oriented enforcement attorneys, forensic accountants, and other professionals in virtually all economically significant countries. David is a founding director of the [Concilium Global Compliance, Investigations & Enforcement Defense Network](#), an alliance of business crimes and compliance lawyers around the world that provides integrated investigations, defense, and compliance solutions to cross-border problems.

FCPA and Global Anti-Bribery & Anti-Corruption Defense

The FCPA and global anti-bribery and anti-corruption laws are a major focus of David's defense, investigations, and counseling practice. David is an FCPA lawyer who has handled dozens of bribery investigations and enforcement defense actions for companies around the world and in a variety of industries.

David is an FCPA/anti-bribery/anti-corruption authority who writes, speaks, and is quoted on hot topics in the field.

Practical, Actionable Compliance Advice

To help his clients avoid compliance trouble in the first place, David provides practical, experienced-based advice and counsel and helps companies develop and implement effective corporate compliance programs. Companies choose David because his approach is to craft reasonable and pragmatic compliance solutions that can be implemented effectively, consistent with the expectations of the regulators but without undue disruption to the company's operations and while respecting the practical realities of their business goals.

Government Enforcement Defense

David also has extensive experience leading teams representing clients in international sanctions matters, in antitrust matters (particularly in the health care industry), and in conducting False Claims Act and environmental law investigations and defending enforcement actions and litigation.

Representative Experience

FCPA and Global Anti-Bribery & Anti-Corruption Defense

- Conducted an internal investigation for a publicly traded company in the health care diagnostics industry into allegations that its Philippines distributor paid bribes in connection with certain government sales. He guided the company through the termination of the distributor and the deployment of enhanced compliance procedures and controls.
- Led the team representing a publicly traded U.S. manufacturing company that discovered suspicious payments to an agent made by its Peru subsidiary. The investigation led to discovery of a number of additional compliance issues, including suspicious payments in China, sales to Cuba, and additional Peru bribery allegations. David helped the company navigate through the complex landscape this presented, including defending U.S. Department of Justice, U.S. Securities and Exchange Commission, and Peruvian government investigations.
- Lead FCPA counsel for an independent compliance monitor engaged by a financial institution, as mandated by its FCPA settlement agreements with the U.S. Department of Justice and U.S. Securities and Exchange Commission. In this role, David advised the organization in his review and assessment of the company's compliance anti-bribery policies, procedures, and internal controls, and he reported to the regulators on his findings and conclusions.
- Conducts international compliance due diligence for a large industrial conglomerate that regularly acquires companies based in and operating all around the world. He helps the company identify and value global compliance risks to inform purchase and valuation decisions, and he assists in developing

compliance integration and remediation plans for newly acquired businesses.

- Served as lead appellate FCPA counsel for Carlos Rodriguez in the landmark case *U.S. v. Esquinazi*, Case No. 11-15331, the first federal appeals court case to address the meaning of the FCPA's "foreign official" element.

Government Enforcement Defense

- Represented two construction company executives who received target letters from a U.S. Attorney's Office, indicating the office believed the executives had participated in a fraudulent scheme involving disadvantaged business set-aside contracts with various governmental entities. David persuaded the office to decline to bring any criminal charges against the executives and negotiated a civil settlement between the United States and the company that allowed a successor company to continue operations. The executives describe their experience with David as follows:

"When our business and personal lives were unexpectedly investigated by the DOJ, we sought out the best legal representation we could find. That search led us to retaining the legal services of Dave Simon. He was a calming and confident influence as he navigated us through countless obstacles, each time achieving results that exceeded our expectations. His legal skills cleared our names and gave us back a future we thought might be slipping away."

- When St. Mary's Medical Center in Huntington, West Virginia, sought to merge with the other major hospital system in the city, Cabell Huntington Hospital, the U.S. Federal Trade Commission challenged the combination on antitrust grounds. David led the team representing St. Mary's in the defense of the FTC investigation and enforcement action and in the negotiation of a political solution with the West Virginia Attorney General, which allowed the merger to proceed.
- Defended an industrial company in a grand jury investigation into potential criminal violations of the Resource Conservation and Recovery Act and persuaded DOJ to close the investigation without bringing any charges against the company.

Extensive India Experience

David has particularly deep experience leading investigations and enforcement actions arising out of India and advising companies and their India operations on compliance with applicable laws. Through this experience, David has developed a deep understanding of India and the risks posed to companies doing business there; he is adept at developing India-specific risk mitigation strategies and navigating cross-border enforcement actions and litigation.

Sherbir Panag, of the New Delhi-based Panag & Babu, describes David's India experience as follows:

“David Simon’s understanding of India goes beyond the surface, to a deeper appreciation of its business, culture, and legal system. This depth allows his advocacy and counsel to be more grounded in the practical realities of the Indian subcontinent. Over the past decade, David has helped our clients navigate complex regulatory and commercial disputes in the United States, earning the trust of our clients, who view him as their go-to U.S. counsel. I have also had the pleasure of acting as co-counsel to FCPA internal investigations that David has led in India, and on each occasion, I have been impressed by his remarkable solution-oriented approaches as well as the respect he commands from law enforcement and clients alike.”

David is a thought leader with respect to India-specific compliance issues and has published extensively and spoken frequently on India compliance and governance issues.

Awards and Recognition

- Named a 2023 “Criminal Defense: White Collar Lawyer of the Year” by *Best Lawyers*
- Peer review rated as AV Preeminent®, the highest performance rating in the Martindale-Hubbell® Peer Review Ratings™ system
- Selected by his peers for inclusion in *The Best Lawyers in America*® (2014–2024) in the field of Criminal Defense: White-Collar Law
- Recommended by *The Legal 500* for his work in Dispute Resolution: Corporate Investigations and White-Collar Criminal Defense
- Recommended and recognized as a “Thought Leader” by *Who’s Who Legal* in the category of Business Crime Defense – Corporations 2023, and as a “Global Leader” in the category of Business Crime Defense – Corporates 2022

Presentations and Publications

- Quoted, “[Practical Implications of the Department of Justice’s M&A Safe Harbor Policy](#),” *American Conference Institute* (January 30, 2024)
- Moderator, panel discussion, “Africa On The Ground: How to Navigate Complex, Heightened Risks and Dilemmas in Real Life,” ACI Foreign Corrupt Practices Act Houston conference (January 25, 2024)
- Quoted, “SAP Bribery Case Shows US Mercy to Cooperating Recidivist,” *Bloomberg Law* (January 11, 2024)
- Co-author, “Becoming a Great Negotiator: Six Tips for Lawyers,” *Wisconsin Lawyer* (January 9, 2024)
- Quoted, “Manage Social Factors Like Other Governance Risks,” *SAP* (December 23, 2023)
- Co-author, “Leveraging the International Labor Organization’s Forced Labor Indicators to Eradicate Forced Labor from Supply Chains,” *Manufacturing Industry Advisor* (November 27, 2023)
- Co-author, “Implications of DOJ’s New Safe Harbor for Disclosing Misconduct Uncovered During M&A Transactions,” *Foley Insights* (October 12, 2023)

- Contributor, Chapter 17, “Board Oversight of Compliance, Regulatory Investigations, and Regulatory Enforcement Actions,” and Chapter 18, “Overview of Critical U.S. Legal Regimes Impacting Companies Conducting Business in the Global Marketplace,” Practising Law Institute *Audit Committee Deskbook* (September 2023)
- Co-author, “What Every Multinational Company Should Know About . . . Supply Chain Integrity,” *Manufacturing Industry Advisor* (June 7, 2023)
- Co-author, “What Every Multinational Company Should Know About . . . Anti-Corruption,” *Manufacturing Industry Advisor* (May 24, 2023)
- Panelist, “Whistleblowers, Internal Investigations, and Compliance Design in the United States, Germany, and Austria,” University of Illinois (May 23, 2023)
- Presenter, “FCPA and Anti-Bribery Compliance in Africa,” Webinar (April 4, 2023)
- Co-author, “Keeping the ‘S’ in ESG: Human Rights & Supply Chain,” *Manufacturing Industry Advisor* (March 29, 2023)
- Presenter, “Whistleblowers in the U.S.: Results and Developments,” German Ombudsman Association’s “Whistleblowing in an International Context and its Implications for Criminal Proceedings” Conference (March 23, 2023)
- Co-author, “DOJ Issues New Corporate Compliance Guidance for Compensation Clawbacks and Messaging Apps,” *Labor & Employment Law Perspectives* (March 9, 2023)
- Co-author, “Real ESG Enforcement Mechanisms: Restrictions on Imports of Goods Made with Forced or Child Labor,” *Manufacturing Industry Advisor* (December 19, 2022)
- Author, “Living with ESG? Perspectives from an American Lawyer and UK MBA Student,” *Foley Insights* (October 14, 2022)
- Co-author, “What You Need to Know about the Corporate Transparency Act’s Final Rule,” *Foley Insights* (October 12, 2022)
- Co-author, “International Compliance and Risk Heat Map,” *Foley Insights* (July 26, 2022)
- Author, “Managing Supply Chain Disruption in an Era of Geopolitical Risk,” *Manufacturing Industry Advisor* (July 19, 2022)
- Co-author, “Top Legal Issues Facing the Manufacturing Sector in 2022,” *Manufacturing Industry Advisor* (July 6, 2022)
- Co-author, “SEC Directs Public Companies to Evaluate Disclosure Relating to Russia’s Invasion of Ukraine and Related Supply Chain Issues,” *Foley Insights* (May 6, 2022)
- Co-author, “Antitrust Division Announces Update to Its Leniency Program and Revamps Answers to Frequently Asked Questions,” *Foley Insights* (April 5, 2022)
- Compliance Podcast, “David Simon Discusses ESG and the Meta-Contract,” *The Voice of Compliance* (February 28, 2022)
- Author, “A New Year for Human Rights Compliance Resolutions,” *Industry Today* (February 4, 2022)
- Co-author, “Uyghur Forced Labor Prevention Act — Comment Period Open until March 10, 2022,” *Manufacturing Industry Advisor* (January 2, 2022)
- Co-author, “What You Need to Know about the Corporate Transparency Act Notice of Proposed Rulemaking,” *Foley Insights* (December 27, 2021)

- Co-author, “President Signs Uyghur Forced Labor Prevention Act — Next Steps for Compliance,” *Manufacturing Industry Advisor* (December 23, 2021)
- Co-author, “Sustainable, Slavery-Free Supply Chains: The New Caveat Emptor,” *Corporate Compliance Insights* (December 15, 2021)
- Co-author, “Forced Labor Update — Possible Complete XUAR Import Ban,” *Government & Public Affairs Blog* (December 10, 2021)
- Co-author, “WPP’s SEC Settlement Highlights Five Common Mistakes Companies Make When Entering the Indian Market,” *Anti-Corruption Report* (December 15, 2021)
- Co-author, “Renewed Warnings and New Legislation on Forced Labor in Global Supply Chains,” *Labor & Employment Blog* (July 15, 2021)
- Co-author, “Forced Labor Sanctions in the Solar Industry – What You Need to Know,” *Foley Insights* (June 25, 2021)
- Co-author, “‘Clean Green’ to Counter Belt and Road,” *Foley Insights* (June 7, 2021)
- Compliance Podcast, “The Achilles Heel of FCPA Compliance: Bribe-Paying Third Parties,” *FTI Compliance Eats Strategy* (April 14, 2021)
- Co-author, “Human Rights and Forced Labor Sanctions Announced,” *Foley Insights* (March 24, 2021)
- Co-author, “FinCEN Advisory and Notice on Financial Crimes Targeting COVID-19 Economic Impact Payments,” *Foley Insights* (March 15, 2021)
- Panelist, “Hot Trends in DOJ and SEC Enforcement and Litigation 2021,” *Webinar* (February 23, 2021)
- Co-author, “What You Need to Know about the Corporate Transparency Act,” *Foley Insights* (January 12, 2021)
- Co-author, “Reassessing Your Global Compliance Risk Profile,” *Foley Insights* (November 13, 2020)
- Presenter, “Investigations During the COVID-19 Pandemic,” *Webinar* (October 29, 2020)
- Presenter, “Don’t Buy a Pig in a Poke: Minimizing FCPA Risks in International M&A,” *Webinar* (October 19, 2020)
- Co-author, “FinCEN Expands View of Compliance Requirements,” *Foley Insights* (August 26, 2020)
- Co-author, “The Impact of an Asset Purchase Transaction Structure on FCPA Risk,” *Global Banking & Finance Review* (August 26, 2020)
- Co-author, “FinCEN Issues Advisory on Cybercrime and Cyber-Enabled Crime Exploiting COVID-19,” *Foley Insights* (August 5, 2020)
- Co-author, “DOJ/SEC Release New Edition of FCPA Resource Guide,” *Foley Insights* (July 6, 2020)
- Co-author, “Supreme Court Recognizes, Limits SEC’s Disgorgement Power,” *Foley Insights* (June 24, 2020)
- Co-author, “Naming Bribe-Paying Third Parties Would Improve FCPA Compliance,” *Foley Insights* (June 24, 2020)
- Co-author, “The Long Arm of American Enforcement: How Companies Without U.S. Operations Can Still Find Themselves Facing U.S. Law and Regulatory Enforcement,” *Foley Insights* (June 4, 2020)
- Author, “Mitigating Bribery and FCPA Risks in the Time of COVID-19,” *Foley Insights* (May 13, 2020)
- Author, “Charitable Giving, Government Support and Concession Requests, and Anti-Corruption Compliance in the Time of the Coronavirus Pandemic,” *Foley Insights* (April 8, 2020)

- Co-author, “Internal Investigations and Privileges: Two More Courts Rule,” *Foley Insights* (April 1, 2020)
- Author, “FCPA Notebook: Trends in 2019,” *Foley Insights* (October 7, 2019)
- Presenter, “Global Compliance Internal Investigations Workshop, *Foley Seminar* (June 28, 2019)
- Panelist, “Hot Trends in DOJ and SEC Enforcement and Litigation,” *Sandpiper Partners Breakfast and Educational Briefing* (May 16, 2019)
- Co-author, “DOJ Announces Updated Guidance on Evaluating Corporate Compliance Programs,” *Health Care Law Today* (May 6, 2019)
- Co-author, “A Checklist for Managing a Dawn Raid in India,” *The Anti-Corruption Report* (April 17, 2019)
- Co-author, “How to Prepare for the Possibility of a Dawn Raid in India,” *The Anti-Corruption Report* (February 20, 2019)
- Co-author, “The Foreign Corrupt Practices Act” (Chapter), *International Agency and Distribution* (February 15, 2019)
- Co-author, “What is the FCPA?” Three-part Video Series (Part 3) (February 6, 2019)
- Co-author, “Anti-Bribery and Foreign Corrupt Practices Act Compliance for U.S. Companies Doing Business in India,” Three-part Video Series (Part 2) (January 22, 2019)
- Co-author, “Ten Tips for Performing Effective Anti-Corruption Investigations in India,” Three-part Video Series (Part 1) (January 7, 2019)

Sectors

- [Manufacturing](#)

Practice Areas

- [Antitrust & Competition](#)
- [China](#)
- [Environmental, Social, and Governance \(ESG\)](#)
- [False Claims Act](#)
- [Government Enforcement Defense & Investigations](#)
- [International Government Enforcement Defense & Investigations](#)
- [Litigation](#)
- [Securities Enforcement & Litigation](#)

Education

- University of Oxford, Saïd School of Business
 - EMBA 2024
- University of California – Berkeley, Boalt Hall School of Law (J.D.)
 - Order of the Coif
 - *California Law Review*
- University of Wisconsin – Madison (B.A., with honors)

- Law Clerk, Honorable Robert W. Warren, U.S. District Court for the Eastern District of Wisconsin
- American Inns of Court Foundation (London, UK)
 - Pegasus Scholar

Admissions

- District of Columbia
- Wisconsin