



## Mark B. Sweet

Partner



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Mark is an investigations and trial attorney. He has a deep knowledge of the False Claims Act (FCA) and routinely represents clients facing fraud investigations, whistleblower complaints, and complex litigation. He has successfully navigated clients through high-stakes, high-profile investigations by the U.S. Department of Justice (DOJ), federal Inspectors General (IGs), Congress, and other law enforcement agencies. Mark has defended investigations and litigations involving government contracts, health care, technology, intelligence, insurance, and federal grants. He advises businesses on how to respond to subpoenas and civil investigative demands, developing strategies for quick, confidential results. Mark will aggressively defend clients all the way through trial, and he has a track record of winning cases and securing favorable settlements.

### Representative Matters



- Leading cases:
  - First-chaired a multi-week trial and won all 13 counts for a government contractor in litigation over teaming agreement, employee non-competes, and theft of trade secrets. *Futrend Technology, Inc. v. MicroHealth LLC* (Va. Cir. Ct.).
  - Won multiple sanctions against the DOJ for discovery violations and forced settlement for less than \$9 million in FCA suit alleging \$400 million of violations by a Coast Guard contractor. *United States v. Bollinger Shipyards, Inc.* (E.D. La.).
  - Navigated the lead developer of Healthcare.gov through congressional and IG investigations about the troubled

### Practice Areas



White Collar Defense & Government Investigations  
Litigation  
Government Contracts  
Telecom, Media & Technology  
Communications Enforcement & Compliance  
Global Disputes

### Credentials



#### Education

J.D., Duke University School of Law  
B.A., with distinction, University of North Carolina at Chapel Hill

#### Law Journals

Member, *Duke Law and Technology Review*

#### Bar and Court Memberships

District of Columbia Bar  
North Carolina Bar  
U.S. Courts of Appeals for the Second, Fourth, Fifth and District of Columbia Circuits  
U.S. District Courts for the District of Columbia, Northern District of Illinois, and Southern District of Texas

- rollout of the health care exchange system, shifting investigators from blaming the contractor to finding fault with government mismanagement of the project.
- Successfully represented an engineering firm that advised the City of Flint, Michigan, on its water systems in criminal investigations by federal and state law enforcement.
  - Won outright dismissal of all 10 counts in criminal prosecution of 2017 Inauguration Day protester after obtaining sanctions for *Brady* violations against the U.S. Attorney's Office.
  - Successes in FCA investigations and litigation:
    - Secured a declination from a U.S. Attorney's Office, dismissal by district court, and affirmation by appellate court in *qui tam* suit alleging misrepresentations of projected costs and profits in proposals for a HUD services contract. *U.S. ex rel. Ashmore v. CGI Group, Inc. et al.* (S.D.N.Y. and 2d Cir.).
    - Secured a declination by a U.S. Attorney's Office and a dismissal by relators in *qui tam* suit alleging government contractor inflated costs for overseas employees' meals. *U.S. ex rel. Smith v. Dyncorp International LLC* (E.D. Va.).
    - Negotiated a favorable settlement and compliance agreement, including credit for disclosure and cooperation, for a telecom provider alleged to have submitted false claims under the Lifeline program. *U.S. ex rel. Gordon v. TracFone Wireless, Inc.* (M.D. Fla.)
    - Convinced a U.S. Attorney's Office not to proceed with an FCA investigation of a software company regarding the use, implementation, and testing of technology supplied to military and intelligence agencies.
    - Negotiated inexpensive settlement, without any discovery, of government investigation and *qui tam* suit alleging false statements in technology services proposal. *U.S. ex rel. Solicitation Integrity Associates v. Calnet LLC* (E.D. Va.).
    - Secured a declination from the DOJ in a *qui tam* suit by former employees alleging violations of the FCA by a government contractor, leading to dismissal of the entire suit. *U.S. ex rel. Burghard v. AECOM* (C.D. Cal.).
    - Represented large technology companies in DOJ investigations and *qui tam* suits alleging alliance payments and defective pricing. *U.S. ex rel. Rille v. PricewaterhouseCoopers LLP et al.* (E.D. Ark.).
  - Federal enforcement of small business and set-aside eligibility rules for government contracts and grants:
    - Represented multiple companies under investigation for potential violation of rules governing Small Business Innovation Research (SBIR) Awards and Small Business Technology Transfer (STTR) Awards.
    - Defended small business in investigation of FCA and Anti-Kickback Act violations due to performance as subcontractor on 8(a) set-aside contract.
    - Conducted several internal investigations of compliance with rules for small business, HUBZone, and other set-aside contracts and grants.

- Regularly advises private equity firms on due diligence concerns arising during sales or acquisitions of government contractors holding SBIR and STTR Awards.
- Navigated government contractors through disclosure and resolution of eligibility issues arising during or after performance of small business and other set-aside contracts.
- Federal Trade Commission (FTC) and Federal Communications Commission (FCC) enforcement matters:
  - Representing wireless telecom company in FCC Notice of Apparent Liability due to alleged violations of Lifeline program rules.
  - Successfully navigated company through FCC, DOJ, and SEC investigation for potential violation of telecommunications relay service regulations.
  - Negotiated a favorable settlement for a major wireless provider facing an FTC investigation and class action suits over marketing of its data plans.
  - Avoided investigation and received commendation from the FCC Enforcement Bureau after working with online payment platform to address concerns about compliance with the Telephone Consumer Protection Act.
  - Secured a consent decree that avoided any admission of liability or forfeiture on behalf of a major wireless provider under investigation by the FCC Enforcement Bureau.
- Commercial litigation:
  - Representing international security firm in Anti-Terrorism Act suit based on performance of government contracts in Afghanistan. *Cabrera v. Black & Veatch Special Projects Corp., et al.* (D. D.C.)
  - Successfully represented a fuel cell company in international arbitration involving over \$100 million in damages due to foreign partner's failure to market and distribute technology.
  - Won dismissal at a pleadings stage of federal and state lawsuits alleging Racketeer Influenced and Corrupt Organizations Act (RICO) violations, conspiracy, and other torts related to the collection of personal data by technology company and affiliates. *Kimberlin v. Hunton & Williams LLP* (D. Md.); *Kimberlin v. Hunton & Williams LLP* (Md.).
  - Won dismissal of claims against multiple government contractors alleging RICO violations, fraud, and conspiracy. *Brink et al. v. Xe Holding, LLC et al.* (D.D.C.).
  - Represented government contractor in multiple suits with former owner alleging fraud and breach of contract arising from fast-moving sale of company after U.S. Army denied base access due to security concerns about former owner. *AAL USA, Inc. v. Black Hall Aerospace, Inc.* (N.D. Ala.); *AAL Group, Ltd. v. Black Hall Aerospace, Inc.* (N.D. Ala.).
- Internal investigations to assess corporate employee misconduct and disclosure obligations:
  - Led investigation of government contractor executive's use of side companies to divert federal procurement funds.

- Conducted internal investigation of a public technology company's compliance with small business regulations during channel sales to the federal government.
- Led multiple investigations for an intelligence community contractor regarding concerns about procurement integrity and mischarging on government contracts.
- Led an investigation into a whistleblower's claims of mischarging and retaliation by a company that provides storage and logistics to the military.
- Conducted an internal investigation for a satellite company into violations of FCC regulations.
- Other criminal defense:
  - Represented a senior executive of a generic drug manufacturer in a criminal investigation into allegations of insider trading and violations of the good manufacturing practices.
  - Part of a trial team that defended a senior government official against allegations of false statements and obstruction of justice during the government's investigation of illicit acts by a prominent lobbyist.

## Professional Experience

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- Financial Analyst, American Airlines (1998-2000)

## Affiliations

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- American Bar Association (ABA)
  - Co-Chair, Section of Public Contract Law, Procurement Fraud and False Claims Committee (2018-2022)
  - Vice-Chair, Section of Public Contract Law, Procurement Fraud and False Claims Committee (2013-2018, 2022-Present)
  - Section of Criminal Justice, White Collar Crime Committee
- Federal Bar Association, Qui Tam Section
- Federal Communications Bar Association (FCBA), Enforcement Committee
- William B. Bryant Inn of Court

## Recognitions

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- Recognized by *The Legal 500 US* in Corporate Investigations and White-Collar Criminal Defense (2019-2021)