

People



Michael P. Kelly

Partner, Litigation
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Michael Kelly defends companies and individuals in criminal and civil enforcement actions covering a wide variety of issues. He has helped clients respond to allegations concerning securities fraud, accounting fraud, wire fraud, the Foreign Corrupt Practices Act, money laundering, health care fraud, sanctions, tax fraud, market manipulation, government contracting fraud, mail fraud, false statements, conspiracy, and food safety. Mike also advises boards of directors and audit committees on the most effective ways to respond to allegations of illegal conduct, and conducts independent investigations on their behalf.

Mike works with Fortune 500 and mid-market companies to improve compliance programs in order to prevent legal violations and to achieve more effective corporate governance. Using his experience in government enforcement actions to anticipate potential problems in compliance programs, he focuses on providing practical and effective advice that can be implemented by companies in a reasonable way.

Mike also represents companies and individuals in civil enforcement actions, whether brought by government agencies like the Securities and Exchange Commission or by private plaintiffs. Mike often represents companies and individuals in securities class actions, consumer class actions, and other forms of complex litigation.

Before joining Akerman, Mike was a partner in the Washington, D.C. office of an AmLaw10 firm.

Notable Work

Defense of Securities and Accounting Fraud Prosecution: Defended a former chief financial officer of a national, publicly-traded trucking company in a securities and accounting fraud prosecution in the U.S. District Court for the Southern District of Indiana. The case was prosecuted by the Fraud Section of DOJ’s Criminal Division and the U.S. Attorney’s Office for the Southern District of Indiana. In its 2019

Areas of Experience

White Collar Crime and Government Investigations
Securities Litigation
Litigation
Commercial Disputes
Corporate Governance
Energy and Infrastructure
Consumer Protection Litigation
Financial Institutions Commercial Litigation
Broker-Dealer

Education

J.D., Duke University School of Law, 1999
B.A., University of Notre Dame, 1996

Admissions

Bars

District of Columbia
New York
Virginia

Courts

U.S. Supreme Court
U.S. Court of Appeals, District of Columbia Circuit
U.S. Court of Appeals, Second Circuit
U.S. Court of Appeals, Fourth Circuit
U.S. Court of Appeals, Sixth Circuit
U.S. Court of Appeals, Seventh Circuit
U.S. Court of Appeals, Ninth Circuit
U.S. District Court, District of Colorado
U.S. District Court, District of Columbia
U.S. District Court, Northern District of Illinois
U.S. District Court, Eastern District of New York
U.S. District Court, Southern District of New York
U.S. District Court, Western District of New York
U.S. District Court, Southern District of Texas
U.S. Bankruptcy Court, Eastern District of Virginia
U.S. District Court, Eastern District of Virginia

annual report, the DOJ's Fraud Section identified this case as one of the four most important securities fraud indictments brought nationwide that year. Mike won important pretrial decisions, including judicial decisions granting the right to take pretrial depositions and preventing the government from using false testimony that it elicited from a FBI agent in two evidentiary hearings. While finding in favor of Mike's client, a federal district judge cited Mike's "devastating" cross-examination of the experienced FBI agent and concluded there were "significant doubts" about the agent's recollections in general. Within a few weeks after receiving the Court's orders, the Fraud Section and the U.S. Attorney's Office voluntarily moved to dismiss all charges with prejudice in the interests of justice.

Defense of Securities Fraud Prosecution: Defended the chief executive officer of a merchant bank in a prosecution in the U.S. District Court for the Southern District of New York alleging wire fraud, securities fraud, and conspiracy to commit securities and wire fraud. After the U.S. Attorney's Office agreed to dismiss the wire and securities fraud charges, the client entered a plea agreement for the conspiracy charge. The case was resolved with a two-year sentence, forfeiture and restitution orders of \$4.38 million, and a requirement of 250 hours of community service.

Defense of Foreign Bribery Prosecution: Represented a Swiss lawyer in a FCPA and money laundering conspiracy prosecution in the U.S. District Court for the Southern District of New York. On an issue of national first impression, obtained a pretrial dismissal of the FCPA conspiracy charge on the grounds of lenity. The case was resolved with a fine and restitution with no sentence of imprisonment.

Defense of Foreign Bribery Prosecution: Represented a Virginia company in a FCPA investigation concerning payments made in Eastern Europe. The case was resolved with a deferred prosecution agreement filed in the U.S. District Court for the Eastern District of Virginia. At the end of the term of the agreement, the Justice Department dismissed all charges.

Internal Investigation of Foreign Bribery Issues: Represented a manufacturing company in an internal investigation and voluntary disclosure to the Justice Department concerning our investigation of foreign bribery issues. The Justice Department declined to take any enforcement action.

Defense of Tax Fraud Prosecution: Represented a chief executive officer in a tax fraud prosecution in the U.S. District Court for the Western District of New York. After years of pretrial litigation, the DOJ agreed to dismiss all felony counts. The case was resolved with a plea to a misdemeanor offense and a \$5,000 fine with no sentence of imprisonment.

Defense of Accounting Fraud Investigation: Represented a chief financial officer in an accounting and securities fraud investigation by the SEC. The SEC brought fraud charges against the company and the chief executive officer, but decided not to bring any charges against our client.

Defense of Health Care Fraud Prosecution: Represented a Kentucky cardiologist in a health care fraud prosecution in the U.S. District Court for the Eastern District of Kentucky.

Related Content

Sergio Acosta and Michael Kelly to Speak on Federal Criminal Law
April 10, 2025

Michael Kelly to Speak on The Inside Story of How Three High-Profile Federal Prosecutions Ended in Defense Victories
February 06, 2025

Michael Kelly to Speak on How Three High-Profile Federal Prosecutions Ended in Defense Victories
November 06, 2024

Investigation of Sanctions Issues: Represented a global financial institution in a sanctions investigation conducted by the U.S. Attorney for the Southern District of New York, the Asset Forfeiture and Money Laundering Section of the Justice Department, OFAC, Federal Reserve Bank of New York, and the New York Department of Financial Services.

Defense of Fraud Prosecution: Represented an individual named in a fraud indictment in state court in Montgomery County, Maryland. The state agreed to dismiss the charges prior to trial.

Non-Public Representations: Represented companies and individuals in grand jury investigations and other non-public government investigations that resulted in declination letters or no enforcement actions.

Compliance Work: Advised numerous Fortune 500 and mid-market companies on effective ways to improve compliance programs.

Whistleblower Investigation: Investigated whistleblower complaints and reported findings and recommendations to boards of directors and audit committees.

Appeal of a Constitutional Issue: Represented a federal district court in an appeal brought by the Department of Justice in the U.S. Court of Appeals for the 9th Circuit. The client prevailed in the appeal by a 2-1 vote.

Putative Class Action of Commodity Traders: Representing a London trading firm in a putative class action in the U.S. District Court for the Northern District of Illinois alleging claims of market manipulation under the Commodity Exchange Act and unreasonable restraint of trade under the Sherman Act. The case is ongoing.

Shareholder Class Action: Represented an oil drilling company in a shareholder class action in the U.S. District Court for the Southern District of Texas. The case was dismissed on the merits with prejudice.

Shareholder Class Action: Represented a director in a shareholder class action lawsuit brought in the U.S. District Court for the Southern District of New York. The case was dismissed on the merits with prejudice.

Shareholder Class Actions: Represented a chief financial officer in shareholder class actions in the U.S. District Court for the Southern District of New York and Multnomah County Circuit Court in Portland, Oregon. The cases were resolved with settlements with no payment by the client.

Consumer Class Actions: Defended a national tax preparation company from claims in numerous class actions around the country. The cases were filed in the U.S. District Courts for the Northern District of Illinois, the Southern District of Indiana, the Northern District of California, and the Southern District of West Virginia, as well as state courts in Cuyahoga County, Ohio, and Montgomery County, Maryland. Some cases were settled, while others were dismissed.

Fair Housing Case: Represented a national financial institution in a civil action in the U.S. District Court for the District of Maryland by the City of Baltimore alleging violations of the Fair Housing Act.

Breach of Contract: Represented an electric company in a breach of contract and warranty case in the U.S. District Court for the Eastern District of Virginia. The case was settled.

Breach of Contract: Represented a franchisor in a breach of contract case in the Circuit Court of Fairfax County, Virginia. The case was settled.

Related Professional Experience

- Law Clerk, U.S. District Judge Ewing Werlein, Jr, U.S. District Court, Southern District of Texas

Honors and Distinctions

- Martindale-Hubbell, AV Rated

Published Work and Lectures

- Federal Bar Association Chicago Chapter, Speaker, “Hot Topics, Practice Tips & Current Developments in Federal Criminal Law,” April 10, 2025
- Akerman LLP, Steptoe LLP, White & Case LLP, and the D.C. Bar Criminal Law and Individual Rights Community White-Collar Crime Subcommittee, Speaker, “How Three High-Profile Federal Prosecutions Ended in Defense Victories: The Inside Story of *U.S. v. Morgan*, *U.S. v. Sadr*, and *U.S. v. Peavler*,” February 6, 2025
- Akerman LLP, White & Case LLP, Steptoe LLP, and New York Council of Defense Lawyers, Speaker, “How Three High-Profile Federal Prosecutions Ended in Defense Victories: The Inside Story of *U.S. v. Morgan*, *U.S. v. Sadr*, and *U.S. v. Peavler*,” November 6, 2024
- ABA Section of Taxation 2024 May Tax Meeting, Speaker, “The Importance of Interview Notes in Criminal Matters, From Investigation Through Sentencing,” May 4, 2024
- *National Law Journal*, Quoted, “En Route to the Supreme Court? Legal Issues to Watch in the U.S. Appeals Courts,” August 23, 2023
- *Bloomberg Law*, Author, “The FBI’s Interview Procedures Need Reforming for Fairer Trials,” February 28, 2023
- Women’s White Collar Defense Association’s (WWCDA) WatercoolerPLUS Series, Speaker, “A Roundtable Discussion About FBI Recording of Witness Interviews,” September 30, 2022
- *Bloomberg Law*, Quoted, “‘Drexel Burnham’ CEO Gets Two Years for Securities Fraud,” February 5, 2021
- The CLS Blue Sky Blog, Co-Author, “How Boards of Directors Should Protect Against the Rising Storm,” March 17, 2020
- *Bloomberg Law*, Co-Author, “How Executives Can Avoid Prosecution in an Economic Downturn,” January 3, 2020
- *Bloomberg Law*, Co-Author, “SEC’s 2019 Enforcement Report Suggests Rise in Accounting Fraud Investigations in 2020,” December 2, 2019
- *Bloomberg Law*, Co-Author, “Judge’s Concerns Over DOJ ‘Outsourcing’ Investigations Could Bring Changes,” June 3, 2019
- *International Law Office*, Author, “Is President Trump Changing How the U.S. Foreign Bribery Law Is Enforced?” November 12, 2018
- *Global Investigations Review*, Author, Newsletter, “Will Recent DOJ Policy Changes Lead to More Voluntary Disclosures?” July 2018

- *Law360*, Author, "A Quiet But Telling Year For Criminal Law In Supreme Court," June 27, 2017
- *International Law Office*, Author, "Enforcing White Collar Criminal Law During the Trump Administration," January 23, 2017
- *Global Investigations Review*, Author, "The Practitioner's Guide to Global Investigations: United States," January 6, 2017
- *American Criminal Law Review*, Author, "Are the Yates Memorandum and the Federal Judiciary's Concerns About Over-Criminalization Destined to Collide?" Fall 2016
- *Bloomberg BNA*, Criminal Law Reporter, Author, "A Message Sent by the Federal Judiciary But Perhaps Not Received by the DOJ," July 15, 2015
- *Corporate Counsel*, Author, "Cooperating with the DOJ: A Shift in Policy," April 21, 2015
- *Main Justice*, Author, "The Fugitive Disentitlement Doctrine Warrants a Close Look by the United States Supreme Court," November 13, 2014