

John Marston

Partner

Washington, D.C.

PHONE: 202.261.7321

FAX: 202.785.6687

EMAIL: jmarston@foleyhoag.com



INDUSTRIES

Healthcare

Professional Services

Technology

PRACTICES

White Collar Crime & Government
Investigations

Litigation

Taxation

Federal Government Strategies

State Attorney General
Investigations

Cybersecurity Incident Response

EDUCATION

Cornell Law School, J.D., *summa cum
laude*, Order of the Coif, 2004

Wheaton College, B.A., *summa cum
laude*, 1999

LANGUAGES

English

John Marston is an investigations and trial attorney in Foley Hoag's Litigation Department. He has led numerous investigation matters and tried more than 50 civil and criminal cases to verdict. Clients rely on John for fully understanding their issues, internalizing them, and tirelessly pursuing favorable outcomes. Clients also appreciate John's high-level experience that is uniquely complemented by his superior problem-solving skill-set and dedication.

John has defended clients against government agencies using his experience across several subject matters, which includes tax, bankruptcy, securities laws, antitrust, and federal and local criminal law and procedure. His experience also extends across industries, having achieved results for individuals and companies in the fields of life sciences, technology, finance, energy, shipping, professional services, and non-profits. John has particularly deep experience in tax investigations and litigation involving the Internal Revenue Service and Department of Justice. He is well known for defending individuals and companies in criminal matters in federal and local courts, where he is relentless in pursuing justice for clients, including going to trial when necessary.

John is also a nationally-recognized legal commentator. He has appeared on CNN; has been quoted by The Associated Press, *The New York Times*, *USA Today*, *Vanity Fair*, and CNBC; and has written articles published by *USA Today* and *The Hill*.

Prior to joining Foley Hoag, John gained valuable experience investigating and trying cases as a federal prosecutor in Washington, D.C. He is well aware of the high burden the government faces in prosecuting a case, and employs his vast experience to help individuals and companies facing investigation, indictment, or trial. As a prosecutor, John regularly served as first-chair trial attorney on challenging cases in U.S. District Court and Superior Court, and he appeared regularly before D.C. federal and local grand juries where he presented hundreds of witnesses. As a senior fraud and corruption prosecutor, he conducted substantial investigations with numerous federal agencies across a range of subject areas including bankruptcy, tax, finance, antitrust, healthcare, and cyber security. During his time as a federal prosecutor, John received multiple U.S. Attorney Special Achievement Awards, as well as Distinguished Service Awards from the Federal Bureau of Investigation and United States Postal Inspection Service.

Prior to his government service, John was an associate in the Tax Controversy group in the Washington, D.C. office of an international law firm, where he litigated cases against the Internal Revenue Service and Department of Justice in Tax Court and U.S. District Courts. He worked on substantial IRS audits and administrative appeals related to such matters as transfer pricing, independent contractor classification, and asset characterization. John also worked on several substantial investigations matters, including cases involving alleged illegal tax shelter promotion, congressional inquiries, and cases involving IRS allegations of misuse of charitable resources.

John believes strongly in pro bono work as a way to use his skills to help his community. For example, he has regularly conducted the Whitman Walker estate planning clinic for HIV-positive citizens of D.C., he defended a client charged with 26 offenses in Prince George's County Circuit Court, and he has argued two appeals, including one as defense counsel in a double homicide.

BAR ADMISSIONS

- District of Columbia
- New York
- Virginia

COURT ADMISSIONS

- U.S. District Court for the District of Columbia
- U.S. Tax Court

REPRESENTATIVE EXPERIENCE

Criminal Defense and Investigations

- Represented individual under investigation by U.S. Attorney's Office for the District of Columbia.
- Represented individual under investigation by federal law enforcement agencies and the U.S. Attorney's Office for the Southern District of New York.
- Advised non-U.S. energy company in connection with SEC and DOJ investigations of a domestic company.
- Defended individual charged with multiple felony offenses in Maryland.
- Defended individual on appeal from homicide conviction in Maryland.
- Investigated alleged tax fraud perpetrated by principals of target company on behalf of acquiring company.

Tax Controversy

- Represented national shipping company in connection with its classification of workers as contractors, resulting in full concession by IRS while still in the audit phase.
- Represented major financial institutions in litigation and trials related to the validity of hundreds of millions of dollars in claimed foreign tax credits.
- Represented national retailer before IRS Appeals in connection with the validity of loss deductions from sales of stores, resulting in settlement of the dispute prior to litigation.
- Represented multinational technology and pharmaceutical companies in responses to congressional inquiries concerning international tax matters, and prepared executives for potential testimony.
- Member of team that tried estate tax case in U.S. Tax Court, resulting in complete victory for the taxpayer.
- Represented substantial charity in IRS audit related to possible excess benefit transactions, resulting in no liability at the conclusion of the audit.

- Represented individual before IRS to resolve tax debts.

Government

- Investigated, indicted, and tried home improvement contractor who had committed bankruptcy, welfare, and contracting fraud.
- Investigated and indicted former employee of multinational investment bank on wire fraud, identity theft, tax evasion, and money laundering charges.
- Investigated and charged collision center manager who conspired with a U.S. Department of State employee to misappropriate government vehicles.
- Investigated and indicted substantial international money-laundering case.
- Investigated substantial data breach involving government website, which led to nearly \$40 million in false tax returns; investigation resulted in money-laundering prosecutions in multiple districts.
- Investigated and charged former high-ranking D.C. government official with subscribing a false tax return.
- Investigated and charged false bomb and hostage-crisis threats called into the D.C. 911 system; identified perpetrator despite his use of deactivated phones and spoofed numbers.
- Investigated and indicted congressional chief of staff on false statement charges.

Other Notable Experience

- Opinion writer published by *USA Today* and *The Hill*.
- Commentator featured in articles published by *Vanity Fair*, CNBC and the *New York Times*.

PROFESSIONAL EXPERIENCE

- United States Attorney's Office, Assistant U.S. Attorney, Fraud and Public Corruption Section, Washington, D.C., January 2013 to April 2018

HONORS & INVOLVEMENT

Honors

- J. Edgar Murdock Inn of Court, Member
- Distinguished Service Award, given by Special Agent in Charge, FBI and Inspector in Charge, USPIS
- Special Achievement Award, given by U.S. Attorney
- Recipient of West Outstanding Scholastic Achievement Award and Kerr Memorial Prize, 2004
- Editor, *Cornell Law Review*

PUBLICATIONS

Foley Hoag Alerts and Updates

- Paycheck Protection Program (May 21, 2020)
- DOJ Criminal Division Publishes Guidance on Evaluating Corporate Compliance

