



# Anthony D. Mirenda

## Partner

*Boston*

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Anthony Mirenda represents national and international corporations, and their officers, directors and others in federal criminal and regulatory investigations, particularly concerning allegations of securities, health care, and government contracting fraud, in international anti-corruption, sanctions and export control matters, in complex civil litigation, and in confidential internal investigations. He has tried complex civil and criminal cases in federal and state courts around the country. In addition, Tony is a senior attorney supervising Foley Hoag's extensive pro bono program providing representation for domestic violence victims.

Tony represents health care and high tech companies, manufacturers, government contractors, and financial services firms in federal and state criminal and regulatory investigations as well as civil litigation, including civil claims brought under the federal False Claims Act, the Computer Fraud and Abuse Act, and the RICO statute. He represents public companies, board committees, and officers and executives in federal criminal, civil and administrative securities investigations, and defends auditors against federal securities and common law fraud and negligence claims. His work with health care clients includes representing providers, pharmaceutical and medical device companies, and others in cases involving alleged Medicare and Medicaid fraud, and FDA or other federal regulatory violations.

Tony represents companies dealing with investigations by federal agencies including the Defense, Justice, Commerce and State Departments in matters involving government contracting and alleged false claims, sanctions, export controls and controls over classified information, the Foreign Corrupt Practices Act and other international anti-corruption regimes, and alleged theft of technology or proprietary information. He also counsels financial institutions in connection with federal investigations concerning bank fraud, FDIC regulatory violations, money laundering and related allegations, and represents corporations and individuals in federal and state tax investigations.

In addition to his trial work, Tony counsels clients on a range of regulatory and corporate compliance issues, plans and executes internal investigations, and assists clients in developing and implementing anti-corruption and other compliance programs. He helps organizations that have been the victims of criminal wrongdoing, and has assisted clients in pursuing criminal referrals, civil actions against the wrongdoers, and fidelity insurance claims.

Tony has authored amicus briefs filed with the U.S. Supreme Court and other appellate courts on behalf of civil rights and criminal justice organizations. He is a senior attorney supervising Foley Hoag's pro bono Domestic Violence Prevention Project, assisting victims

### PRACTICES

Accountants & Professional Liability  
Defense

Business & Commercial Disputes

Litigation

Securities Litigation

Trademark, Copyright & Unfair  
Competition

White Collar Crime & Government  
Investigations

Trade Sanctions & Export Controls

Blockchain & Cryptocurrency

Trademark, Copyright & Unfair  
Competition Litigation

### EDUCATION

Harvard Law School, J.D., 1987

Villanova University, B.A. and B.S., *magna  
cum laude*, 1984

of domestic violence to obtain and enforce restraining orders and in related criminal proceedings, organizations including the Women's Bar Foundation, Jane Doe, Inc., and the Domestic and Sexual Violence Council, Inc. as amici in cases raising issues of concern to victims of domestic violence. For over two decades, he has provided education and training for law enforcement, health care professionals, lawyers and law students on issues of domestic violence.

## **BAR ADMISSIONS**

- Massachusetts

## **COURT ADMISSIONS**

- U.S. Supreme Court
- U.S. Court of Appeals First Circuit
- U.S. Court of Appeals Ninth Circuit
- U.S. Court of Appeals Eleventh Circuit
- U.S. District Court for the District of Massachusetts

## **REPRESENTATIVE EXPERIENCE**

### Business Crimes and Government Investigations

- Conducted an internal investigation for a health care technology company concerning potential "deemed export" and other export control violations, avoiding penalties by voluntary disclosure and implementation of necessary corrective measures.
- Advise global manufacturer on implementation and enhancement of anti-corruption compliance program.
- Won the dismissal of all allegations in favor of a former executive at a financial services company in a SEC civil enforcement action in a case arising out of a complex group of transactions concerning the combination of certain defined-contribution plans. The win was affirmed by the First Circuit.
- Conducted an internal investigation for a board audit committee concerning allegations of potential misrepresentations by management to board and auditor.
- Conducted an internal investigation for a high tech company concerning potential export control violations, avoiding sanctions by voluntary disclosure and implementation of necessary corrective measures.
- Represented an international manufacturer in an internal investigation of an alleged vendor kickback scheme and other wrongdoing involving senior company executives, pursuing civil RICO actions against individuals and vendors involved. Obtained successful recovery.
- Advised high technology and software companies in connection with voluntary disclosure of possible export controls violations involving various technologies, including technical data related to aerospace applications, aerodynamics testing, and military technology.
- Represented a financial institution in an internal investigation, and subsequent civil litigation, concerning alleged wrongdoing by senior management, including allegations of fraud, FDIC regulatory violations, and environmental violations.

Successfully represented the institution in pursuing multi-million dollar fiduciary insurance recovery.

- Represented a nationally recognized not-for-profit organization in an internal review concerning allegations regarding fundraising activities.
- Represented a multi-billion dollar pension fund in an internal investigation of alleged wrongdoing by fund management and others.
- Defended a government contractor against federal charges regarding alleged theft or other misuse of classified and/or proprietary information from the government in parallel criminal and civil investigations.
- Defended a government contractor against claimed violations of the federal False Claims Act asserted in a qui tam action by a purported whistleblower, persuading the federal government not to intervene in the case and eventually obtaining dismissal of all counts.
- Represented a corporation in an extensive federal investigation and parallel criminal and qui tam proceedings involving alleged Medicare fraud and false claims.
- Defended an individual against federal espionage and other charges regarding the alleged theft of proprietary technology and classified information.

## Business Disputes and Commercial Litigation

- Defended a major French company and its employees in an action alleging violations of the Computer Fraud and Abuse Act and theft of trade secrets brought against them in federal district court in California. At trial, obtained a unanimous favorable jury verdict.
- Represented an international corporation and its US subsidiary in federal court litigation involving claims of commercial wrongdoing and fraud. At trial, obtained \$150 million judgment for client. The win was affirmed by the Eleventh Circuit.
- Represented an international corporation in federal court litigation involving claims of commercial wrongdoing and fraud. At trial, defeated claims seeking over \$50 million and obtained a multi-million dollar judgment in the client's favor. Prevailed on cross-appeals, not only preserving the win but also increasing the damages awarded to our client by over \$60 million.
- Defended an international company in a case involving allegations of commercial wrongdoing and bribery, defeating claims for over \$160 million and obtaining a multi-million dollar award in the client's favor after cross-appeals.
- Defended an internationally recognized non-profit and its executive director against a defamation claim arising out of the non-profit's human rights work.
- Defended a Big Four accounting firm and its partners against allegations of fraud, breach of fiduciary duty and civil RICO in a four-week jury trial. Plaintiff-investors claimed that the company's financial statements materially misstated complex issues of purchase accounting, revenue recognition and reserves relating to government payors. The jury exonerated the firm and its partners of fraud, breach of fiduciary duty and civil RICO, awarding only a small fraction of the amount sought by plaintiffs.
- Defended a high-tech provider of custom hardware and engineering solutions against claims asserted by a competitor of trade secret theft, copyright infringement and DMCA violations.
- Defended a national bank against claims of fraud, obtaining summary judgment

dismissing claims. The win was affirmed on appeal.

- Defended a government contractor and an individual against federal charges regarding alleged export violations concerning military technology.
- Represented a national publishing company in an internal investigation of alleged kickbacks and gratuities to senior executives, pursuing a civil RICO action against individuals and contractors involved.

## Trademark

- Represented the American Fidelity Group, which provides insurance and financial services, in federal litigation brought in Pennsylvania and Oklahoma, to protect its right to the American Fidelity name, fully vindicating American Fidelity's rights at trial.
- Represented a national financial services institution in litigation to protect its trademark rights.
- Represented Converse Inc. in litigation to protect its famous trademarks, including the All-Star mark.
- Defended an international manufacturer and distributor of health care products against claims of trademark infringement.

## Pro Bono Matters

- *Commonwealth v. Evelyn*, Massachusetts Supreme Judicial Court (pending), *amicus* brief on behalf of the Massachusetts Association Of Criminal Defense Lawyers, the ACLU of Massachusetts, the New England Innocence Project and others concerning racial bias in establishing reasonable suspicion to justify a search.
- *Commonwealth v. Claudio*, Massachusetts Supreme Judicial Court (2020), *amicus* brief on behalf of the Massachusetts Association of Criminal Defense Lawyers, the ACLU of Massachusetts, the New England Innocence Project and others concerning extending protections to defendants who withdraw guilty pleas affected by systemic misconduct at state drug labs and the related cover-up.
- *Commonwealth v. German*, Massachusetts Supreme Judicial Court (2019), *amicus* brief on behalf of the New England Innocence Project and others concerning the risks of erroneous identification present by the use of show-up identification procedures.
- *Commonwealth v. Williams*, Massachusetts Supreme Judicial Court (2019), *amicus* brief on behalf of the Massachusetts Association of Criminal Defense Lawyers, the ACLU of Massachusetts, the New England Innocence Project and others concerning racial bias affecting for-cause challenges to prospective jurors.
- *Commonwealth v. Jones*, Massachusetts Supreme Judicial Court (2017), *amicus* brief on behalf of the Victim Rights Law Center, Jane Doe, Inc. and the Boston Area Rape Crisis Center concerning protecting mental health counseling privileges.
- *Commonwealth v. Thomas*, Massachusetts Supreme Judicial Court (2017), *amicus* brief on behalf of the Massachusetts Association of Criminal Defense Lawyers concerning the risks of erroneous identification presented by suggestive out-of-court identification procedures.
- *Pleau v. United States; Chafee v. United States*, United States Supreme Court (2013), *amicus* brief in support of *certiorari* on behalf of the National Association of Criminal Defense Lawyers, the Rhode Island ACLU and others concerning federal circumvention of the Interstate Agreement on Detainers in order to seek the death

penalty for an individual in state custody.

- *Jimenez v. Texas*, United States Supreme Court (2013), *amicus* brief in support of *certiorari* on behalf of constitutional law professors concerning the constitutional standard for a state *habeas* petitioner to raise a freestanding claim of actual innocence.
- *Finch v. Commonwealth Health Insurance Connector Authority*, Massachusetts Supreme Judicial Court (2012), *amicus* brief on behalf of the ACLU of Massachusetts, concerning the unconstitutionality of the exclusion of certain categories of lawful resident aliens from access to state health care insurance coverage.
- *Saysana v. Gillen; Hy v. Gillen*, First Circuit Court of Appeals (2009), *amicus* brief on behalf of PAIR, Inc. and others concerning challenge to mandatory detention of certain immigrants.
- *Claiborne v. United States*, United States Supreme Court (2007), *amicus* brief on behalf of U.S. Senators Kennedy, Hatch and Feinstein concerning the promotion of transparency in sentencing and the preservation of judicial discretion sufficient to allow the fair and thoughtful imposition of individual sentences.
- *Cote-Whitacre et al. v. Department of Public Health*, Massachusetts Supreme Judicial Court (2006), *amicus* brief on behalf of twenty-seven civil rights organizations and eleven university professors concerning the unconstitutionality of the application of a 1913 state law to limit the right to equal access to marriage.
- *Goodridge et al. v. Department of Public Health*, Massachusetts Supreme Judicial Court (2003), *amicus* brief on behalf of constitutional law professors concerning the state constitutional right to equal access to marriage.
- *Frizado v. Frizado*, Massachusetts Supreme Judicial Court (1995), *amicus* brief on behalf of the Domestic Violence Council, the Massachusetts Coalition of Battered Women's Service Groups, and the Women's Bar Association concerning the constitutionality of Massachusetts' Abuse Prevention Act, M.G.L. c. 209A.

## HONORS & INVOLVEMENT

### Involvement

- Federal Bar Association, Past National Vice President for the First Circuit
- Federal Bar Association, Past Member of Executive Committee President, Massachusetts Chapter
- Boston Bar Association, Member
- Massachusetts Bar Association, Member
- American Bar Association, Member
- National Association of Criminal Defense Lawyers, Member
- Community Legal Services and Counseling Center, Member of the Board of Directors, Past President of the Board
- Domestic and Sexual Violence Council, Inc., Member of the Board of Directors

## PUBLICATIONS

- "DOJ Announces New FCPA Policy," *Trade Security Journal* (January 2018)
- "Bridging the Cultural Gap in International Arbitrations Arising from FEPA Investigations," *Fordham International Law Journal* (Vol. 39, No. 4, April 2016)
- "International and National Anticorruption Laws: An Overview," RMMLF Special Institute, Human Rights Law and the Executive Industries (February 2016)
- "The Ties That Bind - Corruption and Due Diligence," *Corporate Risk* (Vol. 3 No. 4, November 2014)
- "Best Practices In Preventing Fraud and Corruption In a Global Business" *Lex Mundi* (Update, May 2014)
- "[Roundtable Series 2007: Internal Investigations - Current Issues, Practical Guidance](#)," *ALM GC New England* (Q4 2007)

## Foley Hoag Alerts and Updates

- DOJ and SEC Release Second Edition of FCPA Resource Guide (July 6, 2020)
- DOJ Issues New Policy Regarding Voluntary Disclosures of Export Controls and Sanctions Violations (January 6, 2020)
- Foreign Executive Found Guilty of FCPA Violations (December 3, 2019)
- DOJ Criminal Division Publishes Guidance on Evaluating Corporate Compliance Programs (May 3, 2019)

## SPEAKING ENGAGEMENTS

- Moderator, Export Regulatory Compliance Update, Massachusetts Export Center, Boston, MA (June 2018)
- Speaker, "Combating Corruption in a New Global Reality," Boston Bar Association, Boston, MA (April 2017)
- Moderator, "Corruption and International Arbitration, a 360°View," NYIAC, New York, NY (April 2016)
- Speaker, "International and National Anticorruption Laws: An Overview," RMMLF Special Institute, Human Rights Law and the Executive Industries, Panama (February 2016)
- Speaker, "FCPA Compliance - Doing Business Overseas," New England Corporate Counsel Association, Boston MA (November 2014)
- Speaker, "FCPA Internal Investigations," Governance, Risk Management and Compliance Summit, Boston, MA (March 2014)
- Speaker, "Anti-Corruption Update & Trends: What NGOs Need to Know," NGO Legal Symposium: Practical Approaches to Counter-Terrorism, Fraud & Corruption, Washington, D.C. (June 2013)

