Jack E. Fernandez

Partner

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Practice focus

- White Collar Defense
- False Claims Act (FCA)
- Health Care
- Legal Profession and Ethics
- Pro Bono

Education

- Cornell University Law School, J.D., *magna cum laude*, 1989
    - Order of the Coif
- United States Naval Academy, B.S., 1978

Languages

- Spanish

Described as "fearless, devoted, and tenacious" by *Chambers USA*, Jack Fernandez defends individuals and organizations in white collar criminal cases and has particular experience in cases brought under state and federal False Claims Acts.

Before entering private practice in 1998, Jack was a founding member of the U.S. Attorney's Health Care Fraud Task Force for the Middle District of Florida. As an Assistant U.S. Attorney, he prosecuted several health care fraud cases and tried the first criminal anti-kickback health care case to a jury verdict in the U.S. District for the Middle District of Florida.

Jack understands both sides of criminal and civil false claims act litigation, and he brings that perspective to each client's case, from individuals facing criminal indictment to corporate clients in bet-the-company litigation.

Beginning with his days at the U.S. Naval Academy, then as a Navy fighter pilot aboard the USS *Independence*, Jack learned and internalized the core values of loyalty, discipline, hard work, creativity, and teamwork. During his time in the Navy, he flew combat missions in support of the Multinational Forces in Lebanon following the 1983 bombing of the Marine Barracks in Beirut, and in connection with Operation Urgent Fury in Grenada.

Jack believes the best advocacy starts well before a case even begins, while the case or the indictment might still be avoided. But if it becomes necessary to go to trial, Jack has tried and won many jury and non-jury trials in federal court, and he has argued and won federal appeals.

Jack won an environmental jury trial in the Middle District of Florida against a Fortune 500 company and has tried administrative bid dispute cases, theft of trade secret injunctions, and has litigated numerous other commercial matters. Jack engineered a successful summary judgment in the U.S. District Court for the Middle District of Florida for a large Washington, DC communications law firm in a $100 million federal legal malpractice claim involving Federal Communications Commission (FCC) regulations.

In the past decade, though, given government initiatives, especially in Florida, Jack's practice has tended to focus in the health care arena. Jack has negotiated dozens of federal and state white collar cases involving the health care industry, and has litigated dozens of health care cases arising under

the federal and state False Claims Acts.

Government service

- Assistant U.S. Attorney
    - Middle District of Florida

Professional leadership

- Former Board of Directors, Florida Legal Services, 2014-2016
- Former Member, Thirteenth Judicial Circuit Judicial Nominating Commission, 2010-2014
- Co-Chair, Health Care Fraud Subcommittee, American Bar Association Criminal Justice Section White Collar Crime Committee, 2010
- Member, National Association of Criminal Defense Lawyers (NACDL)
    - Eleventh Circuit Chair, White Collar Crime Committee
- Member, Goldberg Cacciatori Criminal Inn of Court
- Member, American Bar Association
- Former Member, Thirteenth Judicial Circuit Grievance Committee, 1999-2001

Community involvement

- Visiting Committee, Cornell Law School, 2010
- Dean’s Special Leadership Committee, Cornell Law School, 2007-2016
- Advisory Committee, Cornell Law School, 2010-present
- Veteran Mentor, The Hillsborough County Bar Association Thirteenth Judicial Circuit Mentoring Program

Recognitions

- Chambers USA: America's Leading Lawyers for Business, Litigation: White-Collar Crime, Government Investigations and Healthcare (Florida)
- Benchmark Litigation, Local Litigation Star (Florida)
- The Best Lawyers in America, Commercial Litigation; Criminal Defense: White-Collar; Litigation - Health Care;

Qui Tam Law

- Legal 500 US, White-Collar Criminal Defense
- Super Lawyers (Florida)
- The Best Lawyers in America, Lawyer of the Year, Health Care Litigation, 2023
- DC Courts, Capital Pro Bono Honor Roll, 2022
- The Best Lawyers in America, Lawyer of the Year, Health Care Litigation, 2021
- The Best Lawyers in America, Lawyer of the Year, Health Care Litigation, 2019
- The Best Lawyers in America, Lawyer of the Year, Health Care Litigation, 2017

Bar admissions

- Florida
- District of Columbia

Court admissions

- U.S. Supreme Court
- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, District of Columbia
- U.S. District Court, Middle District of Florida
- U.S. District Court, Northern District of Florida
- U.S. District Court, Southern District of Florida

Clerkships

- Hon. J. Dickson Phillips, U.S. Court of Appeals, Fourth Circuit

Representative matters

- Represents a behavioral health care provider in a federal grand jury investigation.
- Represents a company in the education industry and its owner in connection with a joint fraud investigation being conducted by the U.S. Attorney's Office for the Middle District of Florida, the Internal Revenue Service, and the

U.S. Department of Education.

- In partnership with the Southern Poverty Law Center, the ACLU's Immigrant Rights Project, and the ACLU of Florida, we represent a U.S. legal permanent resident from Jamaica. After our client was arrested and posted bail, local law enforcement officers continued to detain him on suspicion of being in the U.S. illegally, even though there was no request or detainer from immigration enforcement officials. We filed a federal lawsuit challenging his unlawful detention which seeks damages and injunctive and declaratory relief.

- Represented an internationally famous psychiatrist and owner of neuropsychiatric instruments used in the diagnosis and treatment of serious mental health disorders in litigation regarding the licensing of the rights to develop and commercialize digitized versions of his instruments. After two years of litigation in multiple federal courts, we secured a favorable settlement that clarified the parties' respective rights under the license, while avoiding any payment to the plaintiff.

- Represented a hospital in defense of a False Claims Act lawsuit alleging the hospital failed to properly obtain informed consent from patients undergoing surgeries, resulting in purportedly false submissions for payment to Medicare, Medicaid, and Tricare.

- Represented a Colombian importer in a Lacey Act grand jury investigation.

- Defended an executive and former general counsel of a major public health care insurance company in connection with federal health care fraud charges. The indictment involved complex legal and accounting issues regarding the Florida Medicaid behavioral health care program. A related civil suit filed by the U.S. Securities and Exchange Commission (SEC) alleged fraud, false filings, and related violations of the Securities Act.

- Persuaded the United States Attorney's Office not to pursue a False Claims Act case against CEO of a local medical provider.

- Resolved a Federal False Claims case against a national medical provider as a simple overpayment.

- Persuaded the United States Attorney's Office not to pursue Medicare fraud charges against a medical billing company.

- Persuaded the United States Attorney's Office not to

pursue Medicare fraud charges against a medical provider.

- Persuaded the government, post search warrant and demand for mail fraud guilty plea, not to pursue charges against technology company or its CEO.

- Conducted internal investigation for a Fortune 500 company involving long term acute care hospital in Tampa.

- Conducted an internal investigation for an international pharmaceutical company involving disclosures to FDA Advisory Committee.

- Won an appeal before the U.S. Court of Appeals, Eleventh Circuit, on behalf of a pharmaceutical company alleged to have violated the False Claims Act on the basis of allegations of off-label marketing.

- Mediated a disagreement involving a complex coding and billing dispute between the state of Florida and a major regional hospital chain.

- Represented a publicly traded national nursing home chain against a criminal investigation led by the Louisiana Attorney General. The allegations were that one of the nursing home employees had caused the death of a resident. After lengthy negotiations with the Office of the Louisiana Attorney General, the case was dropped.

- Represented the vice president and general manager of a Fortune 500 company against a False Claims Act lawsuit brought in the U.S. District Court for the Eastern District of Pennsylvania.

- Represented the head of research for a Fortune 500 company in a significant federal investigation in the Southern District of Florida alleging certain improper practices nationwide. The allegations involved the repeated usage of certain pharmaceuticals designed to be utilized only once. This was a nationwide issue for the company.

- Litigated elder abuse lawsuits in numerous jurisdictions on behalf of a major national nursing home chain. These cases involved allegations of neglect and mistreatment of residents. These were cases with extremely high liability and oftentimes could result in nine-figure verdicts, and they often had overlays of fraud and abuse. The cases settled.

- Represented a high-level corporate employee of a major

hospital chain in the Northern District of Alabama with allegations of obtaining bribes. The employee was charged with receiving bribes in return for locating a rehabilitation facility in the Middle East. The client received no jail time despite a potentially multi-year sentencing guidelines sentence.

- Represented a publicly traded health care company in bid disputes in Florida and Kentucky. The company at various times was either attempting to challenge a bid award to a competitor or uphold a bid award against a challenge by a competitor.

- Conducted an internal investigation and made a successful disclosure to the Florida Medicaid Fraud Control Unit at the request of a health care client being acquired by a major multinational corporation. The internal investigation and disclosure was required as a condition precedent to the sale of the company. The disclosure was made, and the sale was consummated.

- Represented a class of migrant farm workers asserting claims for unpaid wages.

- Represented Army Special Forces combat veteran in efforts to terminate probation.