



## → David L. Douglass

### Partner

2099 Pennsylvania Avenue, N.W.  
Suite 100  
Washington, DC 20006-6801

T: +1.202.747.1904

F: +1.202.747.3804

ddouglass@sheppardmullin.com

David L. Douglass is a partner in Sheppard Mullins' Governmental Practice and former Managing Partner of the firm's Washington, D.C. office.

Over his four-decade career, he has represented public and private companies and senior corporate executives in investigations and litigation. Through the range of his representations, David has earned a reputation as an effective litigator, strategic thinker, and trusted advisor, whom clients seek out to help them solve novel, complex, and often unprecedented legal, policy and business problems. Reflecting his innovative thinking, David co-founded Sheppard Mullin's Organizational Integrity Group, which helps businesses pursue business opportunities while minimizing legal, regulatory, and reputational risk. He is also an American Arbitration Association neutral.

As a former federal prosecutor and former Chair of the ABA Health Law Section, a significant portion of David's practice focuses on representing a wide range of companies in defending False Claims Act investigations and litigation, which is a specialty in representing companies in the healthcare industry. A unique aspect of his practice is counseling companies negotiating acquisitions that are confronted with FCA investigations.

David's trial record has earned him the distinction of being named a Fellow of the American College of Trial Lawyers, a prestigious honor reserved for the most distinguished trial attorneys who exemplify the highest standards of ethical conduct and professionalism. David honed his trial skills as a former Assistant United States Attorney and Department of Justice Trial Attorney, where he investigated and prosecuted numerous criminal cases in a variety of federal courts. He has employed those skills to successfully represent private and public companies achieve favorable litigation and trial results. Most recently, after a four-week trial, David achieved a favorable result in a False Claims Act Case brought by the Department of Justice against a Fortune 100 company when the government was awarded only approximately \$50 million (approximately 5%) of the amount the government sought.

David's professional and life experiences have given him the ability to find common ground with diverse constituencies. In 2013, David was appointed by the U.S. District Court for the Eastern District of Louisiana as deputy federal monitor over the New Orleans Police Department to guide and monitor the department's compliance with a Consent Decree obligating the department to transform its policing practices. In that capacity, David worked closely with community advocates and stakeholders to ensure their meaningful involvement in the consent decree reform process.

Arising from his work as a consent decree monitor, David co-founded and leads Effective Law Enforcement For All (ELEFA), a non-profit organization that partners with communities and their police agencies to adopt law enforcement practices that are safe for the police and the communities they serve. Recently, ELEFA has been

entrusted with the significant responsibility of monitoring the Minneapolis Police Department under both state and federal consent decrees, a testament to David's expertise and dedication to building trust between police and historically marginalized communities.

David is deeply committed to advancing civil rights and promoting diversity within the legal profession. Through David's leadership as vice-chair of the ABA's Diversity, Equity & Inclusion Council from 2020-2023, the ABA adopted Resolution 102, which encourages all attorneys to devote at least 20 hours annually to promoting diversity, equity and inclusion in the legal profession. He was the inaugural recipient of the ABA Health Law Section's Champion of Diversity Award. He serves on the Board of the Washington Lawyer's Committee for Civil Rights and Urban Affairs, as well as the Advisory Board of the Institute for Inclusion in the Legal Profession, where he contributes to fostering a more inclusive and equitable legal landscape. He previously served on the Board of Appleseed Foundation, a nonprofit network of 17 public interest justice centers in the U.S. and Mexico dedicated to building a society in which opportunities are genuine, access to the law is universal and equal, and government advances the public interest.

In summary, David Douglass's multifaceted career reflects a steadfast commitment to effective advocacy, upholding justice, promoting integrity, and driving positive change in the legal profession and in society.

## Honors

Recipient, Inaugural ABA Healthcare Section's Champion of Diversity and Inclusion Award, 2015

Leading U.S. Litigator, *Lawdragon*, 2022-2023

*Super Lawyers*, 2007, 2010, 2014-2024

Recommended Lawyer - Government Contracts, *Legal 500*, 2022-2023

## Experience

### Representative Matters

- Successfully defended NortonLifeLock, a Fortune 20 cybersecurity company, in a \$1.4 billion False Claims Act qui tam matter, in which the U.S. government and California sought in excess of \$1.2 billion in damages and penalties. The case was one of the largest False Claims Act matters to proceed to trial and the largest involving the GSA Schedule. After 10 years of litigation and a four-week trial, the court awarded the government approximately 5% of the amount the government sought.
- Successful representation of physicians investigated for alleged False Claims Act and Anti-Kickback statute violations.
- Counsel for Boston Scientific in defense of False Claims Act litigation against predecessor company.
- Successful trial defense of defendant in the qui tam trial arising from contracting in Iraq. (Federal Court, Eastern District of Virginia)
- Jury verdict on behalf of Health Care Services Corporation in the first indirect-purchaser antitrust case to proceed to trial. (Federal Court, District of Columbia)
- Successful defense of civil and criminal investigation of a national healthcare provider against allegations of violations of the Medicaid Rebate Statute.

- Successful defense of corporate executive who was a target in investigation of alleged export control violations.
- Trial defense of individual charged with violation of the Arms Export Control Act. (Federal Court, District of Maryland, Baltimore Division)
- Director, White House Security Review, a U.S. Treasury Department led multi-agency review of White House security after a small plane crashed on the White House lawn.
- Deputy Director, Department of the Treasury's Investigation of the Bureau of Alcohol, Tobacco & Firearms' investigation and raid on the Branch Davidian compound in Waco Texas.

## Representative Clients (public representations)

- Blue Cross Blue Shield Plans
- Gen Digital (formerly NortonLifeLock, formerly Symantec)
- Guidant Corporation
- Health Care Services Corporation (formerly Blue Cross Blue Shield Texas)
- Kaiser Foundation Health Plans
- MedImmune

## Articles

- 11th Circ. Ruling Misinterprets FCA Materiality Standard  
*Law360*, 10.08.2020
- Government oversight in the age of Covid-19  
*Off the Shelf Podcast*, 08.05.2020
- PPP Data Could Lead To Trouble For Loan Recipients  
*Law360*, 07.17.2020
- Let's Create an Ethical Obligation for Attys to Fight Racism  
*Law360*, 07.10.2020
- Another COVID-19 Enforcement Tool: Money Laundering Law  
*Law360*, 06.09.2020
- The ethics argument for promoting equality in the profession  
*ABA Journal*, 11.01.2019
- Conducting Corporate Investigations in the Fish Bowl of Public Scrutiny  
*Corporate Counsel*, 10.24.2019
- INSIGHT: SWAT Team Training, Tactics Offer Lessons for Attorneys  
*Bloomberg Law*, 08.05.2019
- A Lawyer's Special Weapons and Tactics  
*Sheppard Mullin's Government Contracts & Investigations Blog*, 07.31.2019
- UHS' stock price up more than 10% after \$127M DOJ settlement news  
07.25.2019

- Co-Author, "Signposts In The Road: The Lawyer's Ethical Obligation to Promote Diversity In the Legal Profession," *Institute for Inclusion in the Legal Profession*, 2019
- Co-Author with J. Aronie, "Walking The Walk: What 5 Years Reforming The New Orleans Police Department Has Taught Us," *Summer 2019 Diversity & the Bar Magazine*, 45-51, August 2019.
- Co-Author, "From the Big Easy to the Big Ten, and Beyond," *University Business*, March 14, 2019
- Author, "The False Claims Act Litigation Landscape 2019," January 2019
- Co-Author, "From The Big Easy to The Big Ten, And Beyond," October 2018
- Co-Author, "Feature Comment: Lessons Learned On The Second Anniversary Of *Universal Health Servs., Inc. v. U.S. ex rel. Escobar*," *The Government Contractor*, Vol. 60, No. 21, June 6, 2018
- Author, "Department of Justice Consent Decrees as the Foundation for Community-Initiated Collaborative Police Reform," *Police Quarterly*, July 2017
- Co-Author, "A letter from 10 former Chairs of the American Bar Association Health Law Section to the President concerning Health Care Reform Legislation," *LinkedIn*, March 13, 2017
- Author, "The Scientific Basis for the Ethical Obligation to Require Action to Eliminate Bias and Promote Diversity in the Legal Profession," *IILP Review 2017: The State of Diversity and Inclusion in the Legal Profession*, *Institute for Inclusion in the Legal Profession*, January 2017
- Author, "Defending FCA Claims: Making the FCA Plaintiff Walk the Talk," *The Federal Lawyer*, December 2016
- Co-Author, "When It Comes To Crop Insurance, The FCA Bears Fruit," *Law360*, June 1, 2015
- Co-Author, "When the Government Is Your Customer. What Commercial Companies Need to Know About the False Claims Act," *ABA Environmental, Mass Torts & Products Liability Litigation Committees' Joint CLE Seminar*, January 2015
- Co-Author, "What Is a General Counsel to Do?" *In-House Defense Quarterly*, Winter 2013
- Author, "*Qui Tam* Litigation Defense: Three Dimensional Chess," *American Bar Association's Litigating FCA Cases Teleconference*, February 2011
- Author, "The (Ir)Responsible Corporate Officer Doctrine and Contemporary Corporate Compliance: Protecting Responsible Corporate Officers from Irresponsible Prosecution," *American Conference Institute's 15th Anniversary Drug & Medical Device Litigation*, December 2010
- Author, "Litigating Civil Cases in the Shadow of a Criminal Investigation," *DRI Business Litigation and Intellectual Property Seminar*, April 2010
- Co-Author, "The Corporate Attorney-Client Privilege: Preserving Privacy in the Age of Transparency," *The Joan Fullam Irick Privacy Project III (IADC)*, 2007
- Author, "U.S. Supreme Court Issues Important Ruling on the 'Original Source' Requirement," *Qui Tam Litigation Alert*, March 28, 2007
- Co-Author, "Healthcare Fraud Enforcement Trends & Developments," *Andrews White-Collar Crime Reporter*, February 27, 2007
- Co-Author, "Exceptions to the McNulty Memo: Do They Render the Revisions Illusory?" *Andrews White-Collar Crime Reporter*, February 27, 2007

## False Claims Act Defense Blog Posts

- "In Case Alleging Nationwide Pharmacy Fraud, Kmart Scores Narrow Settlement," April 17, 2018
- "FCA Materiality: It's One thing to Proclaim but It's Another Thing to Prove," January 17, 2018
- "Fifth Circuit: No Anti-Kickback Violation When Defendant Merely Hopes or Expects Referrals from Benefits Designed for Other Purposes," November 18, 2016
- "DOJ Seeks Rehearing in D.C. Circuit Case, Hoping to Resurrect Liability for a Contractor's "Objectively Reasonable" Interpretation of an Ambiguous Contract Provision," February 18, 2016
- "Managed Care Plans: New Targets for Whistleblowers," October 20, 2015
- "Kane et al., v. Healthfirst, Inc., et al. Is There Now a Judicially Created Return of Over-Payment Safe Harbor?" September 10, 2015

## **Government Contracts, Investigations & International Trade Blog Posts**

- "When it Comes to Crop Insurance, the FCA Bears Fruit," April 30, 2015

## **Healthcare Law Blog Posts**

- "Compliance Risk Alert: Opioid Warning Letters issued by the U.S. Department of Justice Target Prescribers," February 6, 2019
- "Escobar's Demanding Materiality Standard Nixes \$350 Million Verdict Against Florida Nursing Facility," February 5, 2018
- "Supreme Court Preserves But Significantly Changes 'Implied Certification' Theory of False Claims Act Liability," June 17, 2016
- "New Guidance on Contractor Self-Disclosure," August 21, 2014
- "Lessons From A Cautionary Tale of Electronic Discovery Pitfalls in Health Care Litigation," July 2, 2014
- "Ninth Circuit Off-Label Marketing Decision Suggests More Prosecutions Will Be Coming," March 7, 2013

## **Organizational Integrity Group Blog Posts**

- "The Close-Out Debrief," January 31, 2024
- "A Short Guide To Responding To Employee Concerns About Your Organization's Actions And Its Mission, Vision, And Values," July 7, 2022
- "DOJ's Renewed Focus On Corporate Ethics & Compliance Programs Highlights Importance Of Organizational Integrity," April 7, 2022
- "Driving Cultural Change To Reduce Corporate Risk: Lessons Learned From The Field," January 13, 2022
- "Leading with Values in Times of Crisis," April 15, 2020

## **Media Mentions**

NOPD Back on Track to Consent Decree Compliance, Federal Judge Says  
*NOLA*, 02.21.2024

Beacon of Justice 2021 Awardees  
*National Legal Aid & Defender Association*, Issue 10

More antitrust probes of government procurement likely, thanks to new task force  
*Federal Computer Week*, 01.08.2020

Inclusion illusion: Diversity's pain point  
*ABA Journal*, 11.01.2019

'Remarkable' Reforms Made at NOPD, But Work on Consent Decree Remains, Judge Says  
*NOLA.com, The Times-Picayune*, 01.25.2019

Judge and Watchdogs Offer Verdict on NOPD Progress: 'Remarkable,' But 'Not Done Yet'  
*The Advocate*, 01.25.2019

Attorney Finds Rewards and Challenges as a Federal Monitor  
*ABA Journal*, 10.17.2018

Singing in the Rain  
What's the Secret to Developing Great Client Relationships  
*The American Lawyer*, 04.01.2017

Lawyers Take Pride in Ancestry  
*ABA Journal*, 02.2017

NOPD Reforms Moving Forward, Feds Say  
But Many at Public Forum Say They're Too Little, Too Late  
*The Times-Picayune*, 01.28.2015

3 Tips For Workable FCA Release Programs  
*Law360*, 07.25.2014

## Speaking Engagements

Speaker, "The Ethical Case for Diversity," Embracing Diversity and Strengthening Communities for a Better Kentucky - Governor's LEAD Conference, November 18-20, 2020

Speaker, "Procurement Collusion Strike Force Webinar," The Coalition for Government Procurement Webinar, January 8, 2020

Moderator, "The Impact of DOJ's New Corporate Healthcare Fraud Enforcement Strategies on Providers and Defense Counsel," American Bar Association Washington Health Law Summit, Washington D.C., December 13, 2016

Moderator, Implementation of Police Department Consent Decrees: Working Together Toward Institutional Change Conference, Tarleton State University, Texas, November 4-5, 2016

Speaker, "Diversity as an Ethical Obligation for Lawyers," Institute for Inclusion in the Legal Profession's International Program, Lausanne, Switzerland, March 29, 2016

Speaker, "Emerging Trends in False Claims Act (FCA) Damages Settlements," ABA Health Law Section's "Emerging Issues" conference, San Diego, California, March 2-5, 2016

Moderator, "Women and Minorities: Willing Partners or Reluctant Allies?" Institute for Inclusion in the Legal Profession and the National Association of Women Lawyers, Washington, D.C., July 15, 2014

Panelist, "A Step-by-Step Guide to Conducting an Internal Investigation of a False Claims Allegation: Scoping Your Action Plan from A to Z," American Conference Institute Inaugural Executive Forum on False Claims and *Qui Tam* Enforcement, New York, New York, January 29, 2014

Panelist, "Lessons from the Trenches: Trial of a Healthcare Case," 31st Annual National CLE Conference, Vail, Colorado, January 9, 2014

Panelist, "The Evolution of the OIG," American Bar Association 2013 Washington Health Law Summit, Washington, D.C., December 10, 2013

Panelist, "Obtaining and Using Discovery from the Government," American Bar Association National False Claims Act and *Qui Tam* Trial Institute, June 5-7, 2013

Panelist, "*Qui Tam* Actions: Managing Whistleblower Suits for Class Action Counsel," Strafford Webinars, February 7, 2013

"Fraud and Abuse Enforcement Update," American Bar Association Health Law Section's 12th Annual Conference on Emerging Issues in Healthcare Law, February 2011

"*Qui Tam* Litigation Defense: Three Dimensional Chess," American Bar Association's Litigating FCA Cases Teleconference, February 2011

"Healthcare Reform in Practice: Federal and State Health Care Fraud Prosecutions," Law Education Institute's 28th Annual National CLE Conference, January 2011

"Managing the New Threat that Individual Corporate Officer Liability Poses to Pharmaceutical Companies," American Conference Institute's 15th Anniversary Drug & Medical Device Litigation Program, December 2010

"Litigating Civil Cases in the Shadow of a Criminal Investigation," DRI's Business Litigation and Intellectual Property Seminar, April 2010

"Key issues in establishing compliance protocols to manage risk in volatile environments," IPOA EuroConference 2010: Risk Management in Conflict and Post-Conflict Zones, April 2010

Panelist, "Mediating Health Care Fraud Cases," ABA National Institute on Health Care Fraud, May 2009

Panelist, National Institute on Internal Corporate Investigations and In-House Counsel, May 2009

Panelist, "Aftermath of the Financial Meltdown: - Analyzing Future Litigation and Compliance Issues," ABA Business Law Section, April 2009

"Representing Medical Device and Other Supplier Companies," Law Education Institute, Health Law Program, January 2009

## Events

Health Care Transactions

Nashville, TN, April 15-17, 2024

False Claims Act Mock Trial Institute 2024

January 17-19, 2024

Collaborative Reform Conference, Fall 2023

Washington, D.C., October 11-12, 2023

Beware: Private Equity Firms Facing Heightened False Claims Act and Antitrust Risks

Webinar, 04.26.2023

PPP Loan Forgiveness – We accepted the PPP Cash, please forgive us. Roundtable on PPP Loan Forgiveness Process Tips and Tactics. C suite only.

Webinar, 06.02.2020

The Future Is Now 2.019

Illinois Supreme Court Commission on Professionalism

05.16.2019

28th Annual National Institute on Health Care Fraud

San Francisco, May 2-4

False Claims Act Trial Institute

Third Annual Mock Trial Hosted in Washington, D.C.

ABA Health Law 17th Annual Conference on Emerging Issues in Healthcare Law

Winter 2016

National False Claims Act and Qui Tam Trial Institute

Hosted by the American Bar Association

Ritz Carlton Denver, CO, 06.03.2015

The American Bar Association 12th Annual Washington Health Law Summit

Ritz Carlton Washington, D.C., 12.09.2014

Women and Minorities: Willing Partners or Reluctant Allies?

07.15.2014

## Memberships

Vice Chair, Fraud and Abuse Interest Group, Health Law Section, American Bar Association

Member and Former Co-Chair, Criminal Process Committee, Administrative Law Section, American Bar Association

Member, Commission on Racial and Ethnic Diversity, American Bar Association

Foundation Fellow, American Bar Association



Chair, Government Enforcement and Corporate Compliance Committee, DRI - The Voice of the Defense Bar  
Member, The Bar Association of the District of Columbia  
Member, Advisory Board, Institute for Inclusion in the Legal Profession  
Member, National Bar Association  
Member, Litigation Counsel of America

## Podcasts & Webinars

Beware: Private Equity Firms Facing Heightened False Claims Act and Antitrust Risks  
04.26.2023

NOPD Consent Decree Monitoring Team Public Meeting March 7, 2023  
03.07.2023

Nota Bene Episode 103: The Diversity and Inclusion Imperative: Codifying Equality into the Lawyer's Professional Code with David Douglass  
10.28.2020

PPP Loan Forgiveness – We accepted the PPP Cash, please forgive us.  
06.02.2020

Nota Bene Episode 59: Organizational Integrity and Solving Reputational Threat with Jonathan Aronie, David Douglass, and Joseph Jay  
11.20.2019

## Practices

Governmental Practice  
False Claims Act  
Organizational Integrity Group  
Public Policy and Government Affairs  
Litigation  
White Collar Defense and Corporate Investigations  
Healthcare  
Digital Health  
ESG and Sustainability  
Healthcare Enforcement

## Industries

ESG and Sustainability

Government Business

Healthcare

Life Sciences

## Education

J.D., Harvard Law School, 1985, *cum laude*

B.A., Yale University, 1981

## Admissions

District of Columbia

Massachusetts

U.S. Court of Federal Claims