



## STACY L. BRAININ

Partner | General Counsel  
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**PRACTICES:** Litigation, Government Enforcement and Litigation, False Claims Act, Qui Tam and Litigation, Internal Investigations and Crisis Management, U.S. Criminal Investigations and Prosecutions, Antitrust and Competition, Healthcare Transactions and Regulatory, Healthcare and Life Sciences

### DALLAS

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### EDUCATION AND CLERKSHIPS

- J.D., University of Texas at Austin School of Law, 1984, *high honors*; Order of the Coif; Associate Editor of *Texas Law Review*
- B.A., University of Texas at Austin, 1981, *high honors*; Phi Beta Kappa

### ADMISSIONS

- Texas

### COURT ADMISSIONS

- United States Supreme Court
- U.S. Court of Appeals for the Fifth Circuit
- U.S. Court of Appeals for the Second Circuit
- U.S. District Court for the Northern District of Texas
- U.S. District Court for the Eastern District of Texas
- U.S. District Court for the Southern District of Texas

Stacy Brainin has extensive experience in white collar criminal defense and government investigations, including representation of companies and individuals in both criminal and civil matters. Her practice also includes complex business litigation with an emphasis in healthcare and professional liability matters. She has defended cases alleging civil and criminal business fraud in state and federal courts throughout the country.

Stacy represents and advises healthcare providers in civil and criminal disputes with state and federal government agencies. She is experienced in handling internal investigations and routinely advises clients regarding difficult compliance and disclosure issues.

Stacy has served as adjunct professor at the University of Texas School of Law from 2009 to present.

### Professional and Community Activities

- American Bar Association, Litigation, Criminal Justice and Health Law Sections
- Dallas Bar Association Antitrust & Trade Regulation Section
- W.M. "Mac" Taylor, Jr. American Inn of Court

### Selected Client Representations

- Handling subpoenas/government investigations of healthcare providers in connection with sealed False Claims Act *qui tam* matters in multiple jurisdictions.
- Served as the Outside Expert to the Parkland Health & Hospital System Board of Managers under its Corporate Integrity Agreement with the Department of Health & Human Services Office of Inspector General.
- Represented a clinical laboratory in False Claims Act *qui tam* in the Northern District of Texas alleging violations of the Anti-Kickback Statute related to pharmacogenetic testing. See *United States ex rels. Choate and Pyburn v. DNA Stat et al.* (N.D. Tex.).
- Represented national hospice provider in False Claims Act *qui tam* in the Northern District of Texas alleging violations of the Stark Law and Anti-Kickback Statute. See *United States ex rel. Capshaw v. White* (N.D. Tex.).
- Represented national health insurance company in False Claims Act *qui tam* in the Middle District of Tennessee alleging violations of the False Claims Act in 26 states in connection with processing Medicaid third party liability claims. See *United States ex*

- U.S. District Court for the Western District of Texas
  - *rel. Kramer v. Humana Inc.* (M.D. Tenn.). Obtained full declination and dismissal.
  - Represented national healthcare provider in sealed False Claims Act qui tam in the Northern District of Texas alleging unnecessary cardiac procedures at hospitals in ten states. Obtained full declination and dismissal.
  - Represented national healthcare provider in sealed False Claims Act qui tam in the Middle District of Tennessee alleging violations of the Stark Law and Anti-Kickback Statute related to hospital medical directorship agreements. Obtained full declination and dismissal.
  - Represented a psychiatric hospital in False Claims Act Investigation based on alleged violations of the Stark Law and Anti-Kickback Statute related to medical directorship agreements for physicians dedicated to elder care.
  - Represented clinical laboratory in False Claims Act investigation by the U.S. Attorney's Office for the Northern District of Texas and the Department of Health and the Office of Personnel Management concerning claims submitted to which administers Federal Employee Health Benefit Programs for immunology testing services supporting personalized treatment of disease.
  - Represented pathology laboratories Caris MPI, Inc. and Miraca Life Sciences, Inc. in False Claims Act qui tam in the Northern District of Texas alleging improper billing and violations of the Anti-Kickback Statute. *See United States ex rel. Fontanive et al. v. Caris Life Sciences, Inc. et al.* (N.D. Tex.).
  - Represented national healthcare provider in False Claims Act qui tam in the Middle District of Tennessee alleging violations of the Stark Law and Anti-Kickback Statute related to employed physician compensation arrangements, coding of evaluation and management procedures, and physician supervision issues. *See United States ex rel. Lee v. Vanguard Health Service, Inc., et al.* (M.D. Tenn.).
  - Represented toxicology laboratories in False Claims Act qui tam filed in the Northern District of Texas alleging violations of the federal Anti-Kickback Statute and Stark Law, as well as the Texas False Claims Act, related to physician lab ownership interests. *See United States of America et al. v. U.S. Health Group, Inc. et al.* (N.D. Tex.).
  - Represented national healthcare provider and six affiliated hospitals in sealed False Claims Act qui tam in the Western District of New York alleging improper billing for kyphoplasty procedures.
  - Represented national healthcare provider in False Claims Act qui tam in the Southern District of Florida alleging violations of the Stark Law and Anti-Kickback Statute related to medical office building leasing in Florida, Georgia, Missouri, Texas, California, Alabama and Tennessee. *See United States ex rel. Osheroff v. Tenet Healthcare Corporation, et al.* (S.D. Fla.).
  - Represented nursing homes throughout Texas in False Claims Act qui tam in the Northern District of Texas alleging improper billing. *See United States ex rel. Gleason et al. v. Nexion Health, Inc. et al.* (N.D. Tex.).
  - Represented national drug testing laboratory in investigation in Virginia conducted by the United States Department of Health and Human Services Office of Inspector General alleging improper billing of drug tests.
  - Represented a private, for-profit school system in a False Claims Act qui tam action in the Northern District of Texas alleging violations of Title IV of the Higher Education Act

- by providing admission personnel prohibited incentive compensation and violations of Texas state regulations governing certification of schools.
- Represented national healthcare provider in investigation of potential submission of false claims for improper billing of partial hospitalization program services and in Self-Disclosure Protocol.
  - Represented long-term acute care facility in False Claims Act qui tam action alleging false claims for payment related to patient billing practices at a West Virginia long-term acute care facility.
  - Represented long-term acute care facility in False Claims Act qui tam in the Eastern District of Michigan alleging false claims for payment related to the admission and continued hospitalization of patients.
  - Represented former national sales director of an orthopedic device company in civil and criminal investigation in the District of Massachusetts alleging kickbacks to physicians in the form of sham consulting agreements, research grants, entertainment, travel and other incentives to induce use of surgical devices.
  - Represented national healthcare provider in an investigation alleging submission of false claims in cardiac catheterization laboratories in Florida.
  - Represented healthcare group purchasing organization in connection with civil and criminal investigation in the Northern District of Texas and United States Department of Health and Human Services Office of Inspector General alleging violations of the federal Anti-Kickback Statute.
  - Represented national healthcare provider in investigation alleging submission of false claims for improper coding of cardiac stent procedures.
  - Represented a major medical device manufacturer, in False Claims Act qui tam suit in the Southern District of Texas, alleging violations of the False Claims Act related to off-label marketing of cardiac devices.
  - Represented national healthcare provider in False Claims Act suit alleging false claims for payment related to hyperbaric oxygen therapy services. *See United States of America ex rel. Sturrock v. Tenet Healthcare Corp. and Southwest General Hospital* (W.D. Tex.).
  - Represented Baylor University Medical Center in, a multi-district False Claims Act suit brought against major hospital systems in the United States alleging false claims for payment for investigational heart devices. Case dismissed on interlocutory appeal to the Second Circuit Court of Appeals. *See In re Cardiac Devices Qui Tam Litigation* (D. Conn.).

#### Professional Recognition

- *The Best Lawyers in America*, Woodward/White, Inc., Antitrust Law, 2005-2011; Litigation - Antitrust, 2012-2019; Healthcare, 2013-2019
- *Chambers USA*, Chambers and Partners, Healthcare (Texas), 2015-2019; Recognized Practitioner, Litigation: White-Collar Crime & Government Investigations (Texas) 2018; Litigation: White-Collar Crime & Government Investigations (Texas), 2019
- *Texas Super Lawyers*, Thomson Reuters, Criminal Defense: White Collar, 2003-2018; Healthcare and Business Litigation, 2013-2016

- *D Magazine*, D Magazine Partners, "Best Lawyers in Dallas," Criminal Defense: White Collar and Antitrust Law, 2011-2012; White Collar, 2015-2019
- *Best Lawyers*, Woodward/White, Inc., 2016 Lawyer of the Year, Health Care Law, 2016
- *Martindale Hubbell Law Directory* with a Peer Review Rating of AV Preeminent

#### **Selected Publications and Speeches**

- "False Claims Act Year in Review," co-author, Haynes and Boone publication, 2014-2017.
- "Internal Investigations in Health Care: Unique Enforcement Environment and the Dilemma of Disclosure," co-author, *Internal Corporate Investigations*, 3rd Edition.
- Speaker, Attorney Liability Assurance Society (ALAS) Annual General meeting, June 2015.
- Speaker, ABA National False Claims Act and Qui Tam Trial Institute, Washington D.C., June 2013.
- "Conflicts of Interest and Other Ethical Issues Facing Law Firms and In-House Lawyers," speaker, Texas Bar CLE's 9th Annual Advanced Business Law Course, October 13, 2011.