

ATTORNEY BIOGRAPHY



Kenneth C. Pickering

Partner

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Practice Groups and Specialty Areas

Litigation

Business and General Litigation

Securities and Shareholders Litigation

White Collar Defense

Education

JD, Northeastern University School of Law
(1996)

BS, Dickinson College (1991)

Bar and Court Admissions

Massachusetts

Connecticut

U.S. District Court for Massachusetts

U.S. Court of Appeals for the First Circuit

Professional/Community Affiliations

Massachusetts Bar Association, Complex
Commercial Litigation Section, council
member

American Bar Association, Criminal
Litigation Committee, former newsletter
editor

U.S. District Court for the District of
Massachusetts, former member Local Civil
Rules Advisory Committee

Federal Bar Association, Massachusetts
Chapter, former board member

Ken is a partner in the firm's Business Litigation Group and chair of the firm's White Collar Defense Team. He is a former special assistant district attorney and has tried more than 20 civil and criminal cases to verdict in Massachusetts and U.S. district courts. He has also represented clients in arbitration proceedings and has argued appeals in both state and federal appellate courts.

Ken's practice focuses on representing individuals in business and securities litigation and in response to state and federal government investigations. He has been counsel to individuals in matters involving mutual fund trading practices, accounting fraud, healthcare fraud, and the operation of privately held investment management companies. He has also represented clients in shareholder derivative actions, securities litigation, and disputes involving closely held companies. Ken has represented individuals and companies in investigations by the SEC, the FBI, the U.S. Department of Justice, the Massachusetts Attorney General's Office and local enforcement agencies.

Boston magazine and *Law & Politics* named Ken one of Massachusetts "Rising Stars" in 2006, 2007 and 2008.

Representative Matters

- Represented taxpayer against the U.S. Department of Justice, Tax Division, in 5-day trial ultimately resulting in a 97% reduction in tax owed
- Counsel to medical services provider in a False Claims Act matter involving the U.S. Department of Justice and Health and Human Services Office of Inspector General resulting in a successful settlement of all qui tam claims
- Represented clients in state and federal collective and class action, and multidistrict litigation matters
- Represented clients in closely held shareholder disputes and shareholder derivative actions
- Represented securities advisor in an investigation and administrative action brought by the Massachusetts Securities Division
- Counsel clients in state and federal grand jury investigation
- Perform internal investigation and advise clients concerning recovery for employee theft and embezzlement
- Successfully responded to an investigation by the treasury department's Office of Foreign Assets Control (OFAC), concerning foreign trade sanctions
- Successfully managed responses to multiple investigations by the SEC's Boston and New York Regional Offices involving allegations of insider trading, stock issuance, and reimbursement issues
- Received a full dismissal by both the U.S. Department of Justice and the relator in a whistleblower case involving allegations of healthcare fraud and violation of the False Claims Act, Anti-Kickback Statute, and Stark Act.

ATTORNEY BIOGRAPHY – KENNETH C. PICKERING

Representative Matters

- Achieved a refusal to prosecute decision by the U.S. Attorney's Office following an FBI investigation into allegations of computer crimes and allegations of theft of intellectual property involving the design and manufacture of medical equipment.
- Conducted extensive interviews and review of medical records pursuant to an internal corporate investigation undertaken in response to a health care fraud inquiry by the Office of Inspector General of the U.S. Department of Health and Human Services.
- Carried out a facility review, analysis of documents, and interviews relating to allegations of the theft of several million dollars from a manufacturing facility. Relayed findings to state and local investigators, and the District Attorney's Office, for criminal prosecution.
- Conducted an investigation, and oversaw the analysis of accounting records, involving allegations of bank fraud. Coordinated with and relayed findings to the FBI for criminal prosecution.
- Represented a client in a bank fraud investigation conducted by the U.S. Attorney's Office and the Department of Justice
- Performed an internal investigation and represented corporate client in an FBI health care fraud investigation
- Represented a company in a state regulatory investigation involving allegations of medical billing fraud
- Represented a client in SEC and grand jury investigations involving federal securities laws
- Represented a client in an investigation by the Massachusetts Attorney General's Office involving lending practices
- Represented a medical clinic in an FBI investigation concerning medical billing practices
- Represented clients in academic disciplinary matters and parallel criminal proceedings

Publications/Presentations

- "Use of the Responsible Corporate Officer Doctrine to Prosecute Corporate Executives," *Massachusetts Bar Association Complex Commercial Litigation Section Newsletter*, Spring 2018
- "Massachusetts Expert Witnesses," 3rd Edition, MCLE 2018 (co-author)
- "Selecting and Retaining Experts," *Massachusetts Expert Witnesses*, 3rd Edition, MCLE 2018 (co-author)
- "Jury Issues," *Massachusetts Superior Court Civil Practice Manual*, 3rd Edition 2nd Supplement MCLE 2017 (co-author)
- "The Case For Creating and Maintaining a Complaint Culture," 14th Annual In-House Counsel Conference, Massachusetts Bar Association, December 1, 2016 (panelist)
- "Discovery and Trial Preparation," Chapter 93A Rights and Remedies, 3rd Edition Supplement MCLE 2016 (co-author)
- "Selecting and Retaining Experts," *Massachusetts Expert Witnesses*, 2nd Edition, 2nd Supplement MCLE 2013 (co-author)
- "Jury Issues," *Massachusetts Superior Court Civil Practice Manual*, 3rd Edition MCLE 2013 (co-author)
- "Best Practices for Advising Clients on Cyber-Security," *American Bar Association Criminal Litigation Newsletter*, Winter 2012, Vol. 13, No. 2
- "The Risks and Benefits of Proffer Agreements in Parallel Proceedings," *American Bar Association Criminal Litigation Newsletter*, Winter 2012, Vol. 12, No. 2
- "Queen for a Day or Royal Fool? Prospective on Limited Immunity Agreements and Corporate Proffers in Parallel Proceedings," American Bar Association Section of Litigation and Criminal Justice Section Conference, April 2011 (moderator)
- "Do High-Tech Law Enforcement Surveillance Tactics Conflict with the Fourth Amendment?," *American Bar Association Section of Litigation, Litigation News*, Volume 36, Number 2, Winter 2011 (quoted)
- "Administrative Exceptions to the Search Warrant Requirement," *Criminal Litigation*, Spring 2010 (co-author).
- "Make Your Arguments Memorable," *Criminal Litigation*, Fall 2009 (co-author).
- "Preparing Your Client to Be a Witness," *Criminal Litigation*, Fall 2008, (co-author).
- "High Court Issues Key Decisions Dealing with Sentencing Guidelines," *Massachusetts Lawyers Weekly*, March 2008 (co-author).
- "Massachusetts," in *Unfair Trade Practices* (The Defense Research Institute)(co-author).
- *Managing Risks in Private Companies*, Mirick O'Connell Seminar Series, 2005 (speaker).

Ken has spoken at seminars on the topics of shareholders' rights in closely-held companies, electronic discovery rules, federal sentencing issues and government investigations. Ken has also been a lecturer at Massachusetts Continuing Legal Education Seminars.