

John F. McCaffrey

Partner

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education

Case Western Reserve University

School of Law (J.D.)

John Carroll University (B.A.)

services

White Collar Criminal Defense &

Corporate Investigations

Appellate & Legal Issues

Business Litigation

Corporate Governance

Health Care

Intellectual Property

IP Litigation

Medical & Pharmaceutical Liability

Privacy & Data Security

John F. McCaffrey's practice focuses on complex business litigation, white collar criminal defense, and professional malpractice.

He has tried more than 60 cases, including numerous successful business and white collar criminal matters, and he has argued numerous appellate matters before the Sixth Circuit Court of Appeals. He handles investigations and cases involving virtually every type of white collar crime, including antitrust, public corruption, securities and banking offenses, technology-related crime, economic espionage and trade secret offenses, healthcare and government contract fraud, tax matters, and environmental crime.

John gained extensive trial experience as a Cuyahoga County Assistant Prosecutor while serving under Prosecutors John T. Corrigan and Stephanie Tubbs-Jones, supervising investigations and prosecuting cases in the economic and financial crimes unit. He was cross-designated as a Special Assistant United States Attorney for the Northern District of Ohio where he tried cases with members of the U.S. Attorney's Office in federal court. John is a former Special Agent of the Federal Bureau of Investigation where he was responsible for conducting investigations of federal criminal offenses, including public corruption and fraud against the government.

John has served as an independent special counsel for two Ohio attorneys general and as a Franklin County assistant prosecutor. He currently serves as an acting judge in Lakewood Municipal Court for the Honorable Patrick Carroll.

John's broad-based experience includes prosecutorial and defense experience with criminal, civil, and administrative proceedings. His clients include corporations and individuals in federal and state court and in connection with federal and state grand jury investigations involving alleged violations of corruption, FCPA, economic crime charges, fraud statutes, including securities fraud, mail and wire fraud, bank fraud, money laundering, RICO, and environmental laws. He has advised and defended physicians and healthcare providers in connection with criminal fraud investigations and regulatory administrative proceedings, including federal grand jury investigations. He has conducted internal investigations for companies and has assisted clients in developing corporate compliance programs. John has also represented the directors, officers, and senior management of Fortune 500 and other publicly traded companies and organizations.

John is Band 1-ranked in *Chambers USA 2019* in Litigation: White-Collar Crime & Government Investigations (Ohio), where sources say, "He is an excellent lawyer, very meticulous, and he has extensive experience."

state admissions

- Ohio
- New Jersey
- New York
- District of Columbia

federal admissions

- Supreme Court of the United States
- United States Court of Appeals, Fifth Circuit
- United States Court of Appeals, Sixth Circuit
- United States Court of Appeals, Eleventh Circuit
- United States District Court, District of New Jersey (1990)
- United States District Court, Northern District of Ohio (1991)
- United States District Court, Southern District of Ohio (2001)

experience

WHITE COLLAR CRIMINAL DEFENSE & CORPORATE INVESTIGATIONS

Antitrust

- Defended regional manufacturer in the Southern District of Florida against Sherman Act violations involving price fixing and customer allocation
- Defended regional manufacturer in central Indiana against federal criminal antitrust charges
- Represented alternative newspaper publisher in federal antitrust investigation
- Defended officer of international home furnishings manufacturer against federal criminal antitrust charges
- Represented senior employee of vitamins manufacturer in international federal antitrust investigation

Public Corruption / Honest Services / RICO

- Defended senior executive and organization resulting in dismissal of 73-count RICO indictment
- Represented largest union electrical contractor in Ohio concerning federal corruption investigation
- Defended attorney facing federal trial for extortion and bribery resulting in a dismissal of the indictment

- Defended CEO of Ohio's largest public school district against RICO and theft in office prosecution
- Defended Fortune 200 corporate executive against federal charges for RICO, Hobbs Act, and mail and wire fraud offenses; pursued the first Hyde Amendment application filed in the Northern District of Ohio seeking payment of attorney fees and expenses by federal government
- Defends state and local officials targeted by federal and state grand jury investigations for violations of conflict of interest, bribery, and public corruption offenses
- Defends organizations, officers, and directors targeted by state and federal grand jury investigations for extortion, bribery, money laundering, and RICO violations

Fraud / Money Laundering / Economic Crimes

- Obtained acquittal of licensed broker-dealer in federal prosecution for bank fraud and criminal conspiracy offenses
- Obtained acquittal of corporate president in federal prosecution for criminal conspiracy, money laundering, and other federal offenses
- Defends attorneys, accountants, and other business professionals targeted by federal and state grand jury investigations and regulatory enforcement actions
- Defends licensed professionals involved in parallel criminal and regulatory enforcement proceedings
- Represented numerous clients in post-trial proceedings to minimize potential sentences under federal and state sentencing guidelines
- Represents target and non-target individuals and organizations subpoenaed to appear before federal and state grand juries
- Represents organizations and individuals under criminal investigation or prosecution for violations of tax, securities violations, and money laundering

Healthcare Fraud and Abuse

- Represents physicians and healthcare organizations charged with violations of healthcare fraud and anti-kickback statutes
- Advises clients on the intricacies of various state and federal laws pertaining to self-referrals and kickbacks and how these may affect their transactions
- Defends physicians and health organizations against HIPAA subpoenas and federal grand jury investigations
- Defends physicians, healthcare professionals, and healthcare organizations in the psychiatric, ophthalmic, cardiac, pharmaceutical, and durable medical equipment industries
- Defends healthcare facilities facing civil and criminal allegations relating to patient abuse and neglect

Securities / Accounting / Financial Fraud

- Represents officers, directors, and other professionals in enforcement actions pursued by the U.S. Securities and Exchange Commission
- Defended corporate CFO in civil fraud action prosecuted by the U.S. Securities and Exchange Commission resulting in dismissal of all charges

Economic Espionage / Theft of Trade Secrets / International Traffic in Arms Regulations (ITAR)

- Defended foreign national in the first case charged by the federal government under 18 U.S.C. §1831 (benefit to foreign government) resulting in dismissal of indictment charging state sponsored economic espionage
- Defended government scientist in ITAR federal investigation
- Represents organizations and individuals implicated in federal investigations concerning international theft of industry trade secrets

Environmental Offenses

- Represented regional waste water recycling facility against state and federal investigation concerning violations of the federal Clean Water Act resulting in the non-prosecution of proposed 21-count federal indictment
- Represented developer in a *Rapanos v. United States*-related action resulting in declination of federal criminal prosecution
- Defended numerous manufacturing facilities against federal and state environmental violations

COMPLEX COMMERCIAL LITIGATION

Business Litigation

- Represented pharmaceutical manufacturer in product liability lawsuit
- Defended cellular telephone company in rate discrimination lawsuit and other litigation matters in Ohio
- Defended international architectural/engineering organization in a variety of litigation, including geotechnical engineering lawsuit and a construction lawsuit involving airport parking garage
- Defended venture capital firm in misappropriation of trade secrets, fraud, and civil conspiracy lawsuit
- Represents manufacturer and distributor of high-performance roofing and flooring systems in various types of litigation
- Defends organizations and individuals in federal and state environmental lawsuits and regulatory proceedings

False Claims Act / Qui Tam Litigation

- Prosecuted *Qui Tam* actions in the healthcare industry resulting in the federal government's interventions and recovery of funds against multi-state healthcare providers and medical device manufacturers
- Defends organizations and individuals against False Claims Act litigation brought by the federal government and *Qui Tam* relators in the construction, healthcare, transportation, and government procurement industries

Professional Malpractice Defense

- Defended trial lawyers and their law firms pursued for professional malpractice in criminal and civil proceedings
- Defended an organization's executive and management committee members sued for fraud, civil conspiracy, and other civil causes of action resulting from the dissolution of organization

publications & events

SPEAKING ENGAGEMENTS

- "Opening Statement: An Argument in Persuasion" and "Direct Examination: Telling a Persuasive Story Through Your Witness, and Making It Look Effortless," co-sponsored by the Ohio State Bar Association and the American College of Trial Lawyers, Columbus, Ohio (November 2018)
- "Opening Statement," "Direct Examination," and "Ethics and Professionalism in Litigation and in the Courtroom (Professional Conduct)," *Thinking on Your Feet: The Essential Skill of a Trial Lawyer*, co-sponsored by the Ohio State Bar Association and the American College of Trial Lawyers, Columbus, Ohio (November 2017)
- "Do I Need An(other) Attorney? Criminal Issues for Civil Practitioners," State of the Court Seminar, Federal Bar Association Northern District of Ohio Chapter, Cleveland, Ohio (October 2017)
- "White Collar Criminal Cases – Procedure and Substance, from Start to Finish – Investigation, Cooperation, Trial, Sentencing and Beyond," Cleveland Metropolitan Bar Association Biennial Institute on White Collar Crime, Cleveland, Ohio (December 2016)
- "10 Things a GC Needs to Know in the Evolving World of Criminal Investigations and Enforcement," 2016 In-House Counsel Summit, Tucker Ellis LLP, Cleveland, Ohio (October 2016)
- "Whistleblowers: It's Getting Shrill Out There!", 2015 In-House Counsel Summit, Tucker Ellis LLP, Cleveland, Ohio (October 2015)
- "White Collar Crime in America and the World: Preventing, Detecting & Remediating Wrongful Conduct," Cleveland Metropolitan Bar Association Biennial Institute on White Collar Crime, Cleveland, Ohio (December 2014)
- American College of Trial Lawyers (ACTL) Ethics, Professionalism and Substance Abuse Program, Columbus, Ohio (December 2013)
- Fifth Annual Great Lakes Antitrust Institute, Columbus, Ohio (November 2013)
- "The Watergate CLE: John Dean and the Ultimate Lawyer's Ethical Dilemma" (2011)
- "Ethics in Government: Prosecuting and Defending Public Corruption," Cleveland Metropolitan Bar Association and Federal Bar Association (2010)
- "Ethics and Professionalism," Ohio State Bar Association (2009)
- "Criminal Law Issues For Bankruptcy Practitioners," Cleveland Bar Association and Federal Bar Association, Bankruptcy Law Sections (2007)
- Opening Statement, National Institute of Trial Advocacy, Trial Advocacy Institute (2007)
- "Internal Corporate Investigations: Best Practices, Pitfalls to Avoid," Cleveland Bar Association, Criminal Law Section (2006)
- "Criminal Law Essentials for the Civil Litigator," The Litigation Institute of the Cleveland Bar Association (2006)
- White Collar Crime presentation to Litigation Section of the Cleveland Bar Association (2006)

PUBLICATIONS

- "Policing for Profit? A Primer on Ohio's Forfeiture Statutes," *Cleveland Metropolitan Bar Journal* (January 2018)

- "Clarifying the Bank Fraud Statute: 'Because That's Where the Money Is,'" *Westlaw Journal – White-Collar Crime* (December 2016)
- "When a Criminal Defendant's Sixth Amendment Right to Present a Defense Trumps the Attorney-Client Privilege," *Cleveland Metropolitan Bar Journal* (September 2016)
- "Government Hacking OK? New Rules Will Expand Government Authority to Do So," *Westlaw Journal – Computer & Internet* (July 2016)
- "Target Tumors, Not Yourself: A Review of False Claims Act Allegations Against Radiation Oncologists," *Applied Radiation Oncology* (June 2015)
- "Witness Statements – Why Reform to the Jencks Act is Necessary," *Cleveland Metropolitan Bar Journal* (September 2014)
- "Proffer Agreements: What Is Your Client Waiving and Is It Worth the Risk?," *Cleveland Metropolitan Bar Journal* (September 2013)

honors

- American College of Trial Lawyers, Fellow
- American Board of Criminal Lawyers, Fellow
- *Benchmark Litigation*
 - Local Litigation Star (White Collar Crime)
- *Chambers USA*
 - Litigation: White-Collar Crime & Government Investigations (Ohio) (2005-2019)
- The Best Lawyers in America® (2007-2020)
 - 2017 Cleveland Lawyer of the Year – Criminal Defense: General Practice
 - 2013 Cleveland Lawyer of the Year – Criminal Defense: White-Collar
- Martindale-Hubbell® AV Preeminent® Peer Rating
- Ohio Super Lawyers® (2007-2020)
 - Criminal Defense: White Collar
 - Litigation
 - Top 10 Ohio Super Lawyers (2015-2017)
 - Top 100 Ohio Super Lawyers (2009, 2014-2020)
 - Top 5 Cleveland Ohio Super Lawyers (2015-2017)
 - Top 50 Cleveland Ohio Super Lawyers (2009, 2013-2020)
- *Who's Who Legal: Business Crime Defence* (2012, 2014, 2015)
- America's Top 100 Attorneys®, Lifetime Achievement (2016)

in the community

- Northern District of Ohio Federal Public Defender Selection Panel (2015)
- United States District Court, Northern District of Ohio (1999-2010)
 - Chairman, Criminal Rules Committee
- Lakewood Municipal Court (2001-Present)

- Acting Judge to Honorable Patrick Carroll
- The Honorable William K. Thomas American Inn of Court (1992-Present)
 - Master Bencher
 - President (2006-2007)
- American College of Trial Lawyers
 - Federal Criminal Rules Committee
- Society of Former Special Agents of the Federal Bureau of Investigation, Cleveland Chapter
 - Chair (1998-2004)
 - Vice Chair (1993-1998)
- The J. Edgar Hoover Foundation
 - General Counsel, Secretary, and Treasurer
- American Bar Association
 - Criminal Law Section
 - Health Law Section
 - Litigation Section
- Federal Bar Association
 - Northern District of Ohio Chapter, Board of Directors
- Ohio State Bar Association
- Cleveland Metropolitan Bar Association
 - Judicial Selection Committee (1993-2012)
 - Criminal Law Section
 - Health Law Section
- St. Edward High School Board of Trustees (2005-Present)
 - Vice Chairman (2006-Present)
 - Governance Committee, Chair (2006-Present)
 - Legal Eagles
 - President (2002-2004)
 - Man of the Year (2004)
- Crime Stoppers of Cuyahoga County Board of Trustees (2019-present)
- Hospice of the Western Reserve, Volunteer Attorney (1991-2005)