

BARACK FERRAZZANO

Barack Ferrazzano Kirschbaum & Nagelberg LLP

Edward F. Malone

Partner

Ed is a civil litigator and white collar criminal defense attorney. He has tried cases and argued appeals in both state and federal courts, represented clients in grand jury proceedings, and counseled and conducted internal investigations for clients who face potential criminal or civil government investigations.

Ed has concentrated his civil litigation practice on representing clients in commercial disputes. He has litigated such disputes for clients in a variety of industries, including the financial services, real estate, luxury goods, healthcare, and defense industries. Ed has significant experience representing clients in litigation over non-compete agreements, including in the financial services, luxury goods, insurance, and medical device industries. Ed has also defended clients in antitrust, consumer fraud, and product liability class action litigation.

About half of Ed's practice has been devoted to counseling and defending individuals and corporations in connection with criminal investigations and civil enforcement actions. Ed has represented a variety of firms that do business with the federal government and other public entities, including engineering firms, health care companies, and defense firms, in grand jury investigations into allegations of fraud against such public entities, as well civil litigation under the False Claims Act. Ed has also represented clients in investigations of securities and other financial fraud, insurance fraud, and criminal antitrust investigations into alleged price-fixing and bid rigging. Ed regularly conducts internal investigations for corporations and counsels his clients on compliance with federal criminal law and on disclosures of potential violations.

Ed has spoken and written widely on criminal law and evidentiary issues. Among other things, he is co-author of a chapter on evidentiary issues in federal criminal cases in *Federal Criminal Practice*, published by the Illinois Institute of Continuing Legal Education and for several years was a co-author of the two-volume treatise *Testimonial Privileges* from West, including a chapter on "Executive and Governmental Privileges."

Ed's experience includes the following representative matters:



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Practices

- Litigation

Education

- U.C.L.A. Law School, J.D., 1991, Order of the Coif
- University of Chicago, A.B., with honors, 1986

Bar & Court Admissions

- State of Illinois
- U.S. District Court - Northern District of Illinois
- U.S. District Court - Central District of Illinois
- U.S. District Court - Northern District of Indiana
- U.S. District Court – Eastern District of Michigan
- U.S. Court of Appeals – 3rd Circuit
- U.S. Court of Appeals - 7th Circuit
- U.S. Court of Appeals - 9th Circuit
- U.S. Court of Appeals - 10th Circuit
- U.S. Supreme Court

- *In re HFCS Antitrust Litigation.* Represented multinational food conglomerate in class action civil litigation and grand jury investigation into alleged price fixing of high fructose corn syrup.
- *In re Citric Acid Antitrust Litigation.* Represented multinational food conglomerate in class action civil litigation into alleged price fixing of citric acid.
- *Moet Hennessy SNC v. Phillips Beverage Company.* Represented international beverage company in arbitration arising from acquisition of vodka distributor.
- *Millennium Holding Group v. Sutura Inc., Fusion Capital LLC.* Represented investment firm in litigation over failed merger agreement.
- *Morgan Street Properties LLC v. Wheaton Bank & Trust Company.* Represented financial institution that acquired assets of failed bank in litigation regarding alleged fraud in the sale of bank assets.
- *Galileo v. United Airlines.* Represented on-line reservations provider in arbitration alleging breach of contract by airline partner.
- Represented several financial institutions in numerous lawsuits over failed real estate projects.
- Represented real estate developer in various partnership disputes.
- Represented high speed traders in several disputes over non-compete agreements.
- Represented Fortune 500 food manufacturer in class action and individual wrongful death litigation arising from food contamination.
- Represented Fortune 500 manufacturer of avionics systems for military aircraft in defense of False Claims Act and related grand jury investigation of allegedly false claims arising from improper accounting.
- Represented major medical device manufacturer in False Claims Act litigation alleging violations of Buy America Act in sales to government.
- Represented Fortune 500 engineering company in grand jury investigation into alleged scheme to defraud municipal corporation in connection with procurement of major contract.
- Represented insurance agency in grand jury investigation into alleged scheme to defraud municipality in connection with commissions paid to agency controlled by municipality's mayor.
- Represented insurance agency officer in grand jury investigation into alleged fraud in insurance audit.
- Conducted internal investigation for Audit Committee of international energy company into failure of management to communicate cost overruns in natural gas project.

Representative Clients

- Bank of America
- M Development, LLC

- Phonak
- Wintrust Financial Corporation

Representative Matters

- Pro Bono: Iranian Political Asylum

Barack Ferrazzano attorneys succeeded in petitioning the U.S. Department of Justice Immigration Court to grant political asylum to an Iranian national, who fled Iran after being targeted by the government for participating in the historic protests that followed the election of Iranian President Mahmoud Ahmadinejad in 2009. This appears to be one of the first U.S. asylum cases connected with the widely reported 2009 election protests in Iran.

News

- Eighteen BFKN attorneys named 2012 Super Lawyers and Rising Stars (January 2012)
- Eighteen BFKN attorneys named Top 5% in Illinois by Leading Lawyers (April 2011)
- Seventeen BFKN attorneys named 2011 Super Lawyers and Rising Stars (January 2011)
- Fifteen BFKN attorneys named 2010 Super Lawyers and Rising Stars (January 2010)

Articles and Publications

- "Selected Issues Under the Federal Rules of Evidence," IICLE Federal Criminal Practice, 2011
- "The Future of Deferred-Prosecution Agreements: Congress Tries a Little Oversight," BNA White-Collar Crime Report, Vol. 3. No. 10, May 9, 2008
- "Private Citizens and Public Corruption: The Problems With 'Honest Services' Fraud," White-Collar Crime, Vol. 21, Iss. 5, February 2007
- "More Problems With 'Honest Services' Fraud: The 7th Circuit Takes Another Whack at Section 1346," White-Collar Crime, Vol. 21, Iss. 10, July 2007
- Testimonial Privileges, Thomson West, 3d ed., 2005
- "Who Goes to Jail?" A Guide to Civil and Criminal Liability Under HIPAA, HCAA Compliance Today, January 2002
- "Legacy of the Reconstruction: The Vagueness of the Criminal Civil Rights Statutes," 38 UCLA Law Review 163 October 1990

Professional Activities and Honors

- Law Clerk, Hon. Cynthia H. Hall, U.S. Court of Appeals - Ninth Circuit, 1991-92
- Chief Note and Comment Editor, U.C.L.A. Law Review

Charitable and Community Involvement

- Board of Governors, Chicago Council of Lawyers (2003-Present)
- Chair, Village of Oak Park Environment and Energy Commission (2007-2009)
- President, Board of Directors, Timeline Theatre Company (2003-2006)