

Brandon N. McCarthy

Partner

Dallas Office

+1.214.765.3680

brandon.mccarthy@katten.com



Practices

FOCUS: Litigation
White Collar and Internal Investigations
Health Care Litigation, Reimbursement and Regulation
Securities Litigation
Foreign Corrupt Practices Act Litigation
Privacy, Data and Cybersecurity

Education

JD, Southern Methodist University Dedman School of Law
BA, Vanderbilt University

Bar Admissions

Texas

Community Involvements

Penny Hardaway Hoopfest Benefitting St. Jude, Co-Founder
Make-A-Wish Foundation
Hope For Haiti
Highland Park United Methodist Church
Jackson Hole Alpine Ski Team, Alumni

Brandon McCarthy is a trial lawyer and former federal prosecutor in the fraud unit. After 13 years as a prosecutor, he now makes use of his government experience in defending companies, executives and health care professionals facing white-collar investigations and prosecutions. Having handled countless criminal investigations, including the largest health care fraud investigations in the country, Brandon knows how to spot weak points in the government's case and use them to benefit his clients. He has helped dozens of clients avoid indictment or secure outright dismissals.

An aggressive approach to heading off indictments

You'll never find Brandon waiting and hoping a client won't get indicted. Instead, he looks to actively head off the government's case at the pre-indictment stage so that it never actually moves forward. To do this, he combines an awareness of enforcement agency priorities with deep insight into a client's unique business. The latter is particularly important when defending individuals and companies in the highly regulated health care industry.

For clients that are indicted, Brandon mounts creative and aggressive defenses, often dismantling the government's case before trial. Proof of his effectiveness lies in the fact that he has tried more than 120 jury trials, plus 42 bench trials, and has prevailed in more than 97 percent of them. He has handled more than 3,000 cases in his career.

Brandon N. McCarthy

Partner

**"He's very experienced in this space. It was a tough circumstance, but he was credible and able to thread those needles, and that's what you want."
"He's a great lawyer who works 24/7 for clients and has delivered."**

- Chambers USA 2022
(Texas, Litigation: White-Collar Crime & Government Investigations)
survey response

Brandon spends significant time consulting on federal investigations. He has defended hospitals, health systems, medical groups and doctors against claims involving the False Claims Act, Anti-Kickback Statute and Stark Law violations as well as defending individuals against a host of fraud and public corruption allegations. Across his entire career, he has handled nearly every type of criminal case, including high-profile matters attracting national media attention. He has represented clients before the Federal Bureau of Investigation, US Attorney's office, Securities and Exchange Commission, Internal Revenue Service and the Office of Inspector General.

Representative Experience

- Counsel in multiple health care fraud *qui tam* cases. Obtained permanent dismissals in four of them in 2018.*
- Lead defense counsel for multiple compounding pharmacies in alleged health care fraud throughout the United States.*
- Defended client against allegations of fraud/theft, obtaining a "no bill" from the grand jury. All charges were dismissed.*
- Internal investigation of alleged health care fraud and subsequent DOJ presentation. Avoided indictment despite a multi-year OIG/FBI criminal investigation.*
- Internal investigation of alleged securities fraud and subsequent presentation to the US Attorney's Office. DOJ did not pursue fraud charges despite a two-year USSS criminal investigation.*
- Represented three doctors accused of health care fraud. Obtained qualified immunity for all clients after internal investigation revealed fatal defects in the government's case.*
- Represented medical practice group (30+ doctors) in alleged health care fraud. Avoided indictment with only resultant fine after 3+-year FBI criminal investigation.*

Brandon N. McCarthy

Partner

- Internal investigation on behalf of eight doctors accused of health care fraud and threatened with indictment by the US Attorney's Office. After a series of presentations to DOJ, no doctors were indicted and only a fine was assessed.*
- Represented two hospitals in responding to CID. Demand was resolved without penalty, and no criminal or civil charges were pursued.*
- Represented clients in 2016 jury trial; obtained 46 directed verdicts on multiple fraud charges against four defendants and several entities.*
- Represented client in criminal Fourth Amendment case. Prevailed on pre-trial motion to suppress against the DOJ, successfully throwing out all evidence and obtaining dismissal of federal charges before trial.*
- Company counsel in obtaining protection and witness designations for multiple executives in an FBI fraud investigation; no clients were indicted.*
- Internal investigation on behalf of physician client that proved incrimination by others. Client avoided indictment despite FBI criminal investigation.*
- Represented client in \$4 million wire fraud case. Obtained reduction in federal sentence from approximately nine years' incarceration to one year probation.*
- Represented client in \$3 million bank fraud case. Obtained reduction in federal sentence from approximately 8 years' incarceration to three years' probation.*
- Defended Dallas-area dental service group in criminal investigation of alleged Medicaid fraud; all dentists were cleared.*
- Defended Irving, Texas-area medical management company against alleged mail fraud via submission of false insurance claims. Negotiated fine in lieu of criminal charges.*
- Defended big-box retailer in one of the largest employee class actions in US history. Obtained district court reversal based on class certification problems raised.*

*Experience prior to Katten

Brandon N. McCarthy

Partner

Recognitions

Recognized or listed in the following:

- America's Top 100 Criminal Defense Attorneys
 - 2018
- *Chambers USA*
 - Litigation: White-Collar Crime & Government Investigations, 2021–2022
- *D Magazine*
 - Best Lawyers in Dallas, 2016–2020, 2022–2023
- *Super Lawyers*
 - Texas, 2022
- *Super Lawyers Rising Stars*
 - Texas, 2004–2005, 2007–2009
- *The Legal 500 United States*
 - Recommended Attorney, 2017, 2020

News

- *Texas Lawbook* Reflects on Five Years of Katten in Dallas in Q&A With Mark Solomon (April 14, 2023)
- Katten Attorneys Recognized by 2022 Texas *Super Lawyers* (September 23, 2022)
- Katten Ranked Leading Law Firm by *Chambers USA* 2022 (June 1, 2022)
- Dallas Attorneys Recognized in *D Magazine's* 2022 Best Lawyers List (April 22, 2022)

Brandon N. McCarthy

Partner

- Mark Solomon Interviewed by *The Texas Lawbook* about the Dallas Office's Successes and Challenges in 2020 (August 27, 2021)
- Katten Boosts Rankings in *Chambers USA 2021* (May 20, 2021)
- Katten Team Successfully Obtains Acquittal for Doctor on Health Care Fraud Charges (December 1, 2020)
- Katten Named Top-Tier Firm in Structured Finance and Securitization by The Legal 500 United States 2020 Guide (June 16, 2020)
- *D Magazine* Names Katten Partners to Best Lawyers in Dallas List (April 30, 2020)
- Katten Adds Former Federal Judge, Top Corporate, Litigation Talent in Dallas (May 9, 2018)
- Newest Members of Katten's Dallas Office Featured in *Texas Lawyer* and *The Texas Lawbook* (May 9, 2018)

Presentations and Events

- NACD Expert Series With Katten (June 14, 2021) | *Presenter*
- Texas Health Law Conference (October 7–9, 2018) | *Participant* | *The Largest Healthcare Enforcement Action in U.S. History: Why it Happened and How to Avoid Being a Part of the Next One*
- Dallas Association of Corporate Counsel Annual In-House Symposium (April 21, 2017) | *Presenter* | *What To Do When the Government Comes Knocking*
- The FCPA and Anti-Corruption Law Compliance (December 2016) | *Presenter*
- "The Forensic Accountant: A Key Witness in the Defense Arsenal," The Business Valuation, Forensic & Litigation Services Conference (October 23, 2015)