

Ethan P. Davis

Partner

*Special Matters and Government
Investigations*

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With deep experience both in government and the private sector, Ethan Davis is an accomplished litigator who focuses on government investigations, compliance counseling and complex litigation. Until September 2020, Ethan served as the Acting Assistant Attorney General for the U.S. Department of Justice's Civil Division, the Department's largest litigating division, where he oversaw about 1,000 lawyers. In that role, Ethan supervised the DOJ's investigations and litigation under the False Claims Act, and played a key role in laying the groundwork to combat fraud in the CARES Act's stimulus programs. Prior to his government service, Ethan was a litigation partner at King & Spalding, where he helped companies in the life sciences, healthcare, technology, and energy sectors navigate government investigations and represented them in complex, high-stakes commercial and government-facing litigation. Ethan has extensive experience in *qui tam* litigation under the False Claims Act.

Ethan counsels clients on developing and improving their compliance programs and policies. In addition, Ethan represents companies in complex litigation, including commercial disputes and cases against the government. He is a former Supreme Court clerk who has argued in the U.S. Supreme Court, many other federal and state courts, and has participated in multiple trials. Ethan has significant experience in the life sciences and healthcare sectors.

In addition to serving as the Civil Division's Acting Assistant Attorney General and Principal Deputy Assistant Attorney General, Ethan also served as the Deputy Assistant Attorney General in charge of the Consumer Protection Branch, which enforces the Food, Drug, and Cosmetic Act. During his time at DOJ, Ethan served on the Deputy Attorney General's corporate enforcement working group and led the Civil Division's fight against the opioid crisis and elder fraud. He was also one of the key DOJ leaders in developing policies related to COVID-19 and enforcement strategies to address fraud in the CARES Act's stimulus programs, including the Paycheck Protection Program, the Main Street Credit Facility, and the Provider Relief Fund.

During his time as a litigation partner at King & Spalding, he litigated civil and criminal cases involving the False Claims Act, the Anti-Kickback Statute, off-label promotion of medical devices, and Medicare payment rates to hospitals. He also participated in significant intellectual property matters, as well as cases in the energy sector.

Ethan clerked for Judge Diarmuid F. O’Scannlain on the Ninth Circuit, and Justice Neil M. Gorsuch on the U.S. Supreme Court.

Matters

Various companies in connection with government investigations under the False Claims Act, off-label promotion, and the Anti-Kickback Statute

A **group of hospitals** in a successful challenge to the Centers for Medicare and Medicaid Services’ efforts to reduce inpatient payment rates

Omnicare, Inc. in successfully obtaining dismissal of a False Claims Act action in the Southern District of New York concerning Medicare Part D dispensing fees and Anti-Kickback Statute allegations regarding generic drug rebates

Vascular Solutions in obtaining a complete acquittal in a criminal prosecution for alleged off-label promotion

GlaxoSmithKline in various state-court actions claiming personal injury and death caused by the prescription drug Paxil

Pandora Media, Inc. in a successful appeal to the Second Circuit concerning payment rates to the American Society of Composers, Authors, and Publishers

Google, Inc. in a matter concerning the copyrightability of software interfaces

The petitioner in *Ocasio v. United States*, a U.S. Supreme Court case raising significant questions concerning conspiracy law and Hobbs Act extortion

Credentials

EDUCATION

J.D., Yale University

B.A., Amherst College, summa cum laude

ADMISSIONS

U.S. Court of Appeals for the Federal Circuit

Supreme Court of the United States

U.S. Court of Appeals for the Second Circuit

U.S. Court of Appeals for the Fourth Circuit

U.S. Court of Appeals for the Fifth Circuit

U.S. Court of Appeals for the Ninth Circuit

U.S. Court of Appeals for the Eleventh Circuit

U.S. District Court for the Southern District of New York

U.S. District Court for the Southern District of California

U.S. District Court for the District of Columbia

California

District of Columbia

New York

CLERKSHIPS

Law Clerk, Diarmuid F. O’Scannlain, U.S. Court of Appeals for the Ninth Circuit

Law Clerk, Justice Neil M. Gorsuch, Supreme Court of the United States

Recognition

King & Spalding Pro Bono Service Award

2013, 2014, 2015

Attorney General's Award for Exceptional Service

2013

Adjunct Professor of the Year – Awarded by the Students of American University Washington College of Law

2013

Special Commendation for Outstanding Service in the Civil Division of the U.S. Department of Justice

2010, 2012

Insights

ARTICLE

February 11, 2021 • Source: Law360

The Power Of A National Climate Emergency Declaration

FEATURE

February 10, 2021

General Counsel Internal Investigations Decision Tree for the Automotive Industry

January 22, 2021

General Counsel Internal Investigations Decision Tree for the Energy Industry

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Events

WEBINAR

March 16, 2021

The New Intensified Scrutiny and Enforcement of FDA-Regulated Clinical Trials

December 16, 2020

The World Changed in 2020 – What This Means for Healthcare Fraud Enforcement and You

November 10, 2020

13th Annual King & Spalding Medical Device Summit

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News

IN THE NEWS

February 25, 2021 • Source: Modern Healthcare

Ethan Davis comments on the Supreme Court declining to clarify how false claims should be verified under the False Claims Act

December 15, 2020 • Source: Bloomberg Law

Ethan Davis discusses the DOJ wanting prosecutors to gather information on whistleblowers' involvement with third-party funders

November 12, 2020 • Source: MedTech Insight

Mark Jensen, Ethan Davis and Brandt Leibe explain why the U.S. Department of Justice faces significant challenges in investigating and punishing bad behavior during the COVID-19 pandemic

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