



Mark A. Racanelli

Partner

New York

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Mark Racanelli has extensive experience in white collar, regulatory, criminal and civil antitrust, and a wide-range of general commercial matters, as a counselor and trial attorney. He has represented large financial institutions and other companies as well as individuals, in internal investigations and criminal and regulatory enforcement matters involving investigations by the United States Attorney's Offices in the Southern and Eastern Districts of New York, the U.S. Department of Justice, the New York State Attorney General's Office, the Manhattan District Attorney's Office, the SEC and FINRA.

Before joining O'Melveny, Mark served as an Assistant U.S. Attorney in the United States Attorney's Office for the Southern District of New York for five years. During that time, Mark prosecuted a variety of criminal cases—including fraud, money laundering and RICO cases—handled complex grand jury investigations and tried numerous cases to verdict, including trials involving RICO and money laundering charges. In 2005, Mark was an Acting Chief of the General Crimes Unit at the U.S. Attorney's Office.

Mark is an accomplished trial lawyer, having tried numerous criminal and civil cases to verdict in cases involving antitrust, fraud. In addition to Mark's extensive litigation experience, he has conducted complex corporate internal investigations, provided antitrust counseling, and has experience assisting a monitor of businesses in connection with the resolution of criminal and regulatory investigations.

Admissions

Bar Admissions

New York

Court Admissions

US District Court, Eastern, Northern, and Southern Districts of New York

US Court of Appeals, Second Circuit

Education

Georgetown University, J.D., 1993:
magna cum laude; Articles Editor,
Georgetown Law Journal (1992-1993)

Georgetown University, B.S.F.S.,
1990: *magna cum laude*

Experience

Trial Work

- Represented a major medical device company in a month-long antitrust trial involving alleged tying in which the plaintiff was seeking more than \$130 million in damages, before trebling, resulting in a complete victory for our client.
- Represented a former employee of a major financial institution in a three-week criminal trial in the Southern District of New York against the Department of Justice, in connection with DOJ's investigation of the municipal bond derivative instruments industry; and
- Represented a national concert promoter in a six-week civil trial against Suffolk County in the Eastern District of New York, prosecuting federal civil rights claims for an unconstitutional denial of a mass gathering permit.

White Collar Investigations for Financial Institutions

- Represented a large financial institution in connection with SEC and New York Attorney General investigations into the firm's electronic trading platform.
- Represented a large financial institution in connection with an FCPA investigation conducted by the SEC and Federal Reserve involving the firm's hiring practices abroad.
- Represent the portfolio company of a private equity firm in an antitrust investigation regarding whether individuals in the firm's sales force engaged in bid rigging with competitors for bids on certain contracts.

Other White Collar Investigations

- Represent a large international manufacturer in an investigations by the United States Attorney's Office for the Southern District of New York and Main Justice into alleged false statements made to the company's primary regulator.
- Represent a global commodities trading firm in a wide-ranging FCPA investigation by the United States Attorney's Office for the Eastern District of New York and Main Justice involving alleged conduct in South America.
- Represent Bumble Bee tuna company in a broad-based price fixing investigation and prosecution by the Antitrust Division of the Department of Justice involving conduct by the company's sales force. The negotiated fine imposed on the company was among the lowest ever issued by the Antitrust Division due to the quality of the company's cooperation.
- Represented a large manufacturer in a criminal antitrust investigation in which we found that the government's whistleblower had manufactured key evidence, resulting in the Department of Justice closing its investigation of the company with no finding of liability.
- Represent an international ride-sharing company in a number of investigations being conducted by the United States Attorney's Office for the Northern District of California and the Department of Justice, including in connection with a broad-based FCPA issue.

Antitrust Litigation & Counseling

- Many antitrust litigation and counseling matters, including monopolization, price-fixing, market allocation, dealer termination, unfair trade practices, predatory pricing and retail price maintenance cases. Represented both plaintiffs and defendants in civil antitrust litigation, including defendants in multi-district class actions.

Theft of Trade Secrets and Misappropriation of Confidential Information

- Litigated and conducted investigations concerning theft of trade secrets and misappropriation of confidential competitive information.

Appellate Experience

- Mark has argued numerous cases before the United States Court of Appeals for the Second Circuit.

Corporate & Government Experience

- Assistant U.S. Attorney, U.S. Attorney's Office, Southern District of New York
- Acting Chief, General Crimes Unit, U.S. Attorney's Office, Southern District of New York

Professional Activities

Publications

- "DOJ's New 'Carve-Out' Policy: Is It An Improvement?" *Corporate Counsel*, co-authored with Howard Heiss and James Miller (January 29, 2014)
- "Taking the Fifth in Government Investigations: Does the Adverse Inference Doctrine Apply?" *Bloomberg White Collar Crime Law Reports, Vol. 1, No. 1*, co-authored with Howard Heiss (July 2009)
- "On Government Suppression of Defense Testimony," *New York Law Journal*, co-authored with Howard Heiss (July 3, 2007)
- "Can An Employee's Proffer Be Used Against the Company?" *New York Law Journal*, co-authored with Howard Heiss (June 27, 2006)
- "Criminal Antitrust Enforcement: Will States Take the Plunge?" *The ABA Antitrust Counselor*, Vol. 2.6 (April 2006)
- "Bugs in the Boardroom? Congress is Poised to Allow Wiretapping in Federal Antitrust Investigations," *The Antitrust Source*, Vol. 5, Issue 3 (January 2006)
- "Senate to Consider Broadening Wiretap Law in Antitrust Cases," *New York Law Journal* (October 24, 2005)
- "Refusals to Deal in the Context of Network Joint Ventures," *52 Bus. Lawyer* 531, co-authored with William H. Pratt and James D. Sonda (1997)
- "State and Federal Antitrust Enforcement in the United States: Collision or Harmony?" *9 Conn. J. Int'l. L.* 499, co-authored with Donald L. Flexner (1994)

Honors & Awards

- Recognized by *Chambers USA* for White-Collar Crime & Government Investigations (2019-2022)
- Recognized by *The Legal 500* for Antitrust (2019-2020) and Cartel (2021)