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Pietragallo Parnter Marc Raspanti Working Both Sides of the Corporate Crime Aisle

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Marc Raspanti is one of the few lawyers in the country who has an active white collar criminal defense practice along with an active False Claims Act whistleblower practice.



Marc Raspanti

Half the time he spends defending corporate crime cases. And half the time he spends suing corporations on behalf of whistleblowers to recover millions stolen from the U.S. government.

Raspanti is a partner at Pietragallo Gordon Alfano Bosick & Raspanti in Philadelphia.

The Pietragallo firm's work is about 80 percent defense side and 20 percent plaintiffs side.

But Raspanti's practice is about half and half.

He likes working both sides of the aisle.

And sometimes, working a False Claims Act case opens the door to criminal referrals.

"It opens the door to relationships," Raspanti told *Corporate Crime Reporter* in an interview last week. "If you get a chance to work with us, you see that we can do two things at the same time. And I've been lucky enough to get referrals from some of the same large firms that I have had many years of litigation with. I have had professional relationships with all of my adversaries. That's just the way I operate."

"Then I get referrals of individual executives. The last five or six years, we have started to get involved with a fair number of Foreign Corrupt Practices Act (FCPA) cases. Those are international cases. There are former executives and current executives. I do tend to get referrals from foreign companies who have divisions in the United States. I have represented a number of German, Japanese, French, Swedish and Italian executives. I also get referrals from professionals who know we have a particular expertise in a certain area."

"For example, over the last ten years, I have handled close to two dozen dermatology fraud cases in the United States. I tend to get calls from dermatologists who might find themselves under investigation. I have tried some of those cases to verdict. I used to do a lot of government contracting work — on the defense side."

Even though Raspanti made his mark in the False Claims Act arena, he's partial to criminal defense cases.

“When you are working with the government on a False Claims Act case, you have a client, you stand behind the government,” Raspanti said. “Sometimes you get along fine. Sometimes you don’t. And sometimes there is a middle ground. Sometimes the United States is working with you. Sometimes the United States is working against you. No matter how many years I’ve done it, it’s a complicated dance.”

“When you do federal criminal defense work, there is a purity about it that I enjoy. Why? Because the Constitution of the United States clearly indicates what the role of a prosecutor is and what the role of the defense is. There is never any bleeding of the lines. When I have my criminal defense hat on, I know exactly what I have to do. And I know what my ethical obligations are and my professional obligations.”

“When you deal with criminal prosecutors, they know exactly what they are supposed to do. I request information, they give it to you. If I am getting ready for trial, there are a series of things that you can and can’t do. And the prosecution has the burden of proof.”

“Maybe it’s because I started as a criminal lawyer, I have always enjoyed handling criminal cases. I’ve always enjoyed what I would call the clarity of purpose of both the government and defense attorneys. At times, one can be frustrated by the fact on any given False Claims Act case, you may be working with the government, adverse to the government, sideways to the government, or completely aligned with the government — depending on the case.”

Is the False Claims Act area more lucrative to you than criminal defense work?

“If I were to calculate all the fees that I have earned in criminal cases and calculated my earnings in False Claims Act cases, I don’t know that there would be a tremendous disparity. There may be years where there is a tremendous disparity. But over the course of a career, I am not so sure the disparity would be that great. But I’ve never made the calculation. I wouldn’t want to stop one or the other.”

Have you ever represented a company on the criminal side that you have sued on the False Claims side?

“Not at the same time of course, but yes. There have been companies that I have prosecuted on the civil side in a False Claims Act case — and after that case was over, those companies reached out to me and I represented them on the criminal side. It was years later.”

“I was involved in a case that went on for seven years against a giant company. We resolved the case. They paid the claim. And then six months later that company hired us to handle all kinds of litigation around the United States.”

How has False Claims Act practice changed over the years?

“I went to my first seminar on the 1986 amendments — actually, it wasn’t even a seminar,” Raspanti said. “It was a sidenote to a white collar conference in Georgetown. I think there were six people who had any interest in the United States. When I filed my first case in 1987 or so, I was the first lawyer who had ever filed a case in our District Court in Philadelphia. It took me six hours to file it. I had to explain to the court what I was doing and how I was doing it.”

“The judge at the time, who now has passed away, didn’t believe that I could come

in and file a case under seal and not tell the other side. He thought it was kind of anti-American. But when I showed him the statute and explained it to him, he agreed. But he put me under oath and put two U.S. Marshalls at my side so if God forbid I had lied to him in some way. We settled that case and he laughed about it later. I didn't at the time."

"In the first few years 1986 to 1992 — the False Claims bar might have had 25 to 30 people. There may be 500 to 600 people now who claim to be doing False Claims work somewhere in the United States. The size of the bar has increased. The litigation has exploded."

"When I first started practicing, you brought a case to the federal government. At that time, no states had False Claims laws. There are now 30 states that have them. You would bring your case to the federal government and the government would decide to either take over the case and intervene or decline the case and generally we would dismiss. Over the last five years or so, there are a number of plaintiffs firms who have decided to move forward and litigate those cases on their own."

"That has been a real shift in the paradigm. There are a number of us who are now moving forward with these cases without the government and engaging in fairly complex cases against some of the largest law firms in America and suing some of the largest defendants without the government or with the government in a monitoring position."

And now, some of the cases that dominated the 1990s are coming back.

"Government contracting cases are starting to come back into the forefront," Raspanti said. "The government is starting to put in resources for people who know how to do those cases. You are going to start to see fraud cases that people thought were extinguished — they will start to come back — laboratory fraud and hospital fraud cases are coming back. Mutations of FCPA cases will spawn some type of qui tam litigation. That might include what I would call a trifecta — a False Claims Act case, and SEC action, coupled with an IRS action. Health care is not going away. No matter what happens during the election and what people do to tinker with some of the fraud programs, they are just going to open up other doors for fraud enforcement. Some of the giant programs passed over the last eight or ten years — like the Medicare Part D program — people haven't started to scratch the surface of the type of fraud cases you are going to see coming out of there."

"Managed care cases — people in law enforcement, the plaintiffs bar and the defense bar — are trying to figure out how to stop fraud in those areas and how to prosecute fraud in those areas. Those would be a few of the ones that should be on everyone's radar."

[For the complete q/a format Interview with Marc Raspanti, see 30 Corporate Crime Reporter 18(12), May 2, 2016, [print edition only](#).]