



# D. Jacques Smith

PARTNER AND COMPLEX LITIGATION PRACTICE CO-LEADER

Jacques is the national leader of the firm's Complex Litigation practice and co-chair of the firm's Investigations group.



## Industries

[Health Care](#)  
[Life Sciences](#)

## Practices

[Complex Litigation](#)  
[Government Enforcement & White Collar Investigations](#)

## Education

National Judicial College, Advanced Evidence;  
Advanced Procedure, 2010  
Louisiana State University, JD, 1991  
Loyola University, BA, cum laude, 1988

## Offices

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Jacques focuses his practice on government investigations and enforcement. Recognized as one of the top False Claims Act practitioners in the country, his clients largely encompass all branches of health care and life sciences. He has more than 30 years of experience handling jury, bench, and administrative trials in a variety of civil and criminal cases in state and federal courts throughout the country. Jacques excels at handling complex commercial disputes and internal investigations and responding to government inquiries.

Jacques is consistently ranked as a leading health care litigator by both *Chambers USA* and the *Legal 500 US* and is recognized with an AV Preeminent® rating. A frequent writer and speaker on government investigations and the False Claims Act, Jacques' work has been widely cited by *The National Law Journal*, *Bloomberg Legal*, *Compliance Week*, *Law360*, and other leading publications. His cases have gained wide attention and been covered by electronic and print media, including *The New York Times*, *USA Today*, *The Wall Street Journal*, *Chicago Tribune*, *The Washington Post*, *The Miami Herald*, and other leading news organizations.

Jacques is also viewed as a thought leader in the Health Care and Enforcement industry. He is a founder and leader of the firm's popular [Investigations Blog](#), a destination for enforcement news and analysis published weekly. In 2020, it was the firm's top blog, gaining over 60,000 readers. In 2021, Jacques was the firm's top-read author, gaining almost 100,000 reads of 53 news alerts. JDSupra recognized Jacques and the Investigations Blog with its Readers' Choice and Top Author Awards for 2021.

Jacques is also a decorated Captain with extensive and unique legal experience through his 30 years of service in the US Navy. He served as General Courts-Martial Judge, Chief Navy Reserve Trial Judge, and on the Navy-Marine Corps Court of Criminal Appeals. With more than 12 years of experience on the trial and appellate benches, Jacques presided over more than 200 jury, bench, and appellate trials and hearings.

Jacques maintained a dual career with ArentFox Schiff and the Navy for 24 years. Out of respect and appreciation for the firm's support during this time, he formed AFVets with other active, reserve, former, and retired military and uniformed service employees. The goal of AFVets is to create and foster awareness and community for ArentFox Schiff's military and uniformed service employees by concentrating on issues specific to those who are or have been in service, while applying that experience to serving clients with similar military backgrounds.

## Client Work

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Jacques represents domestic, foreign, and sovereign clients in complex internal investigations and civil litigation at all levels in both federal and state courts. He also frequently advises these clients on their rights and liabilities before litigation arises. He has substantial experience in responding to government subpoenas and civil investigative demands (CIDs) as well as supervising a nationwide litigation docket of complex cases arising in multiple states. More than 50 of Jacques' cases have been reported.

Selected significant matters include:

- Representation of a large public hospital in the resolution of a \$70 million False Claims Act and Stark Law litigation in *United States ex rel. Reilly v. North Broward Hospital District* (USDC SD Fla.)
- For more than 17 years, served as lead litigation counsel representing a global pharmaceutical manufacturer in connection with the Average Wholesale Price MDL throughout the country in *In re Pharmaceutical Industry Average Wholesale Litigation* (MDL No. 1456)
- Served as lead counsel representing a large, international pharmaceutical company in an investigation brought by the US Attorney for the District of Massachusetts and DOJ alleging violations of the False Claims Act and possible violations of the Federal Food, Drug, and Cosmetic Act in *United States ex rel. Albermarle v. Cipla, et al.* (DOJ; USDC D. Mass)
- Obtained dismissal on behalf of a global pharmaceutical company in two related litigations alleging violations of the False Claims Act (*United States ex rel. John R. Borzilleri, M.D., et al v. Abbvie, Inc., et al.*) (USDC SDNY and DRI)
- Obtained declination of two proton therapy centers in a False Claims Act, Stark Law, and Anti-Kickback Statute investigation in *United States ex. rel. Ward v. ProCure Management* (USDC WD Ok.)
- Obtained declination on behalf of the former president of a benefit management company in a False Claims Act investigation (the former company entered into a \$54 million settlement) (USDC SDNY)
- Served as lead counsel representing multiple entities in investigations brought by the US Attorney for the District of Massachusetts into whether pharmaceutical manufacturers and patient assistance programs violated the Anti-Kickback Statute and False Claims Act relating to the provision of co-pays, obtaining declination of one entity (DOJ; USDC D. Mass)
- Obtained dismissal of a financial institution in a False Claims Act lawsuit asserting billions of dollars in claims in *United States ex. rel. Brown and Stone v. BankUnited Trust* (USDC SD Fla.)
- Obtained favorable settlements on behalf of multiple pharmaceutical companies in pricing disputes alleging fraudulent Medicaid reimbursements in *State of Louisiana v. Abbott Laboratories, et al.* (19th Judicial District; Court of Appeals First Circuit; Supreme Court (LA))
- Obtained declination on behalf of an international medical device manufacturer in an investigation by the DOJ Consumer Protection Branch and the United States Attorney's Office for the District of Massachusetts into False Claims Act allegations and possible criminal or civil violations of the Federal Food, Drug, and Cosmetic Act in *United States v. Coloplast et al.* (USDC D. Mass)
- Obtained dismissal of a major pharmaceutical company in a False Claims Act litigation in *United States, ex rel. Conrad v. Actavis Mid-Atlantic, et al.* (USDC D. Mass)
- Obtained dismissal of a public hospital in four False Claims Act Cases where its former General Counsel brought suit (Sup. Ct. Cal.; USDC ND Cal.)
- Representation of a major hospital in connection with a proposed Government audit and complex administrative subpoena (USDC ED Pa.; 3rd Cir.)
- Representation of a major urban hospital in connection with a False Claims Act case (USDC DDC)
- Obtained dismissal of a vaccine manufacturer in a False Claims Act litigation in *Dingle v. BioPort Corp.* (USDC WD Mich.; 6th Cir.; USSC)
- Obtained summary judgment in favor of a generic pharmaceutical company in a patent case in *Glaxo v. Impax Laboratories* (USDC ND Cal.)
- Obtained dismissal on behalf of a major vaccine producer in a challenge brought by military service members in *Bates v. BioPort Corp.* (USDC DDC)
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Representation of a major pharmaceutical company in connection with patent and unfair competition litigation (USDC MD)

## Military Service

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In 1990, Jacques began his career as a litigator while serving with the Judge Advocate General's Corps of the United States Navy. As a US Navy attorney, Jacques served as a prosecutor, chief defense counsel, and appellate defense counsel while being stationed throughout the world. He gained extensive litigation experience, trying hundreds of courts-martial at trial and on appeal. Jacques later served in the Navy's General Litigation Division, representing the Navy's and Department of Defense's interests in federal district courts and courts of appeal throughout the country, the US Court of Claims, and the Federal Circuit. Following his affiliation with ArentFox Schiff in 1996, Jacques continued his service as a reserve officer in several roles. Jacques served as Commanding Officer (acting) and Executive Officer of the Regional Legal Service Office for Naval District Washington, as a General Court – Martial Military Judge, as the Chief Judge of the Navy Reserve Trial Judiciary, and as an Appellate Judge on the Navy-Marine Corps Court of Criminal Appeals.

Jacques was named the American Bar Association's Outstanding Young Naval Attorney in 1993 and has been awarded the Legion of Merit, three Meritorious Service Medals, five Navy Commendation Medals, the Navy Achievement Medal, and multiple Secretarial and Flag Letters of Commendation for outstanding military and professional service. He was promoted to Captain in the United States Navy in 2009 and retired from the Navy with 30 years of service in 2020.

Jacques was designated a Litigation Expert by the Navy Judge Advocate General Corps' Military Justice Litigation Career Track Selection Board in 2009. He has taken several advanced classes at the National Judicial College and served as an adjunct faculty member at the Naval Justice School and Army's Judge Advocate General School for many years, focusing on evidence, trial practice, and judicial methodology. As a result, Jacques was recognized with an AV Preeminent® judicial rating.

## Publications, Presentations & Recognitions

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Jacques is committed to public service matters. In 2000 he was awarded the firm's Albert Arent Pro Bono Award for outstanding commitment to community service and pro bono interests. In 2018 and again in 2021, he was awarded the Marc L. Fleischaker Award for his outstanding work on pro bono matters. *Chambers USA* and *Legal 500 US* have consistently recognized him for his litigation and investigations work in the health care industry.

Jacques is a regular writer, speaker, and commentator on a variety of government investigations, False Claims Act, and litigation best practices nationwide. He is the co-author of multiple chapters of a PLI book on government investigations, litigation, and health care fraud. He has also co-written (with Michael Dearington and Randall Brater) "[Eleventh Circuit Deals Blow to Defense Contractors in Key False Claims Act Statute-of-Limitations Tolling Case, Deepening Circuit Split](#)" and (with Michael Dearington) "[Catch Me If You Can: The Divergent and Inconstant Pleading Requirements Governing Qui Tam Complaints.](#)"

Jacques has also been frequently interviewed or quoted in industry publications, including:

"[Q&A: FCA Specialist Jacques Smith on Perils, Precautions for Health Care Industry](#)," *The National Law Journal*, May 12, 2021, "[Mischievous activity during the pandemic will lead to more healthcare fraud recoveries in 2021](#)," *Healthcare Finance*, March 16, 2021, "[Sixth Circuit Offers New Clarity for Copycat Fraud Cases](#)," *Bloomberg Law*, January 29, 2021, "[Distilling Compliance Lessons from Healthcare Fraud Cases](#)," *Compliance Week*, January 24, 2019, "[DOJ's Slumping FCA Hauls Cloud Future Recovery Prospects](#)," *Law360*, January, 11, 2019, and "[Damages Could Pile Up if High Court Affirms False Claims Ruling](#)," *Bloomberg Law*, January 4, 2019.

Jacques' recent client alerts and blog articles include:

- "[Elizabeth Holmes Sentenced to 11 Years in Prison.](#)"
- "[DOJ Announces \\$3.3 Billion Cryptocurrency Seizure and Fraud Conviction.](#)"
- "[DOJ Indicts 47 Individuals in Largest COVID-19 Fraud Scheme To Date.](#)"
- "[Medical Technology Company President Convicted for Participation in \\$77 Million COVID-19 and Allergy Testing Scheme.](#)"
- "[Dozens Charged in \\$1.2 Billion Nationwide Telemedicine and DME Fraud Scheme.](#)"
- "[Financial Asset Managers Charged in \\$1.2 Billion International Money Laundering Scheme.](#)"
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- “SCOTUS Raises the Bar for Proof of Intent Under the Controlled Substances Act.”
- “Former CEO Indicted for Misleading Investors About COVID-19 Test Kits.”
- “DOJ and SEC Bring Charges Against Executive in Alleged \$62 Million Global Crypto Investment Fraud Scheme.”
- “Prosecutors Target Fake COVID-19 Immunization and Vaccination Cards.”
- “DOJ and Treasury Announce Multilateral Russian Oligarch Task Force Called ‘REPO.’”
- “DOJ Attorneys Comment on the Rise of Telehealth Fraud During the COVID-19 Pandemic.”
- “Millennial Couple Faces Twenty Years in Prison for Largest DOJ Bitcoin Seizure in History.”

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## Bar Admissions

District of Columbia

Louisiana

Maryland

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## Court Admissions

Supreme Court of the United States

US Court of Appeals, Armed Forces

US Court of Federal Claims

US Court of International Trade

Navy-Marine Corps Court of Criminal Appeals

US District Court, District of Columbia

US District Court, Eastern District of Louisiana

US District Court, Middle District of Louisiana

US District Court, Eastern District of Wisconsin

US District Court, Western District of Michigan

US Court of Appeals, District of Columbia Circuit

US Court of Appeals, Federal Circuit

US Court of Appeals, 1st Circuit

US Court of Appeals, 3rd Circuit

US Court of Appeals, 4th Circuit

US Court of Appeals, 6th Circuit

US Court of Appeals, 9th Circuit