FOLEY
FOLEY & LARDNER LLP

Michael J. Tuteur
Partner/Retired

Mike Tuteur has spent nearly 40 years successfully trying cases and arguing appeals in both civil and criminal courts around the country. He is sought after for his seasoned judgment, trial experience, and litigation victories. Mike served as chair of the firm's national Litigation Department from 2009 to 2015, as well as chair of its Commercial Litigation Practice. He is a partner in the Government Enforcement Defense & Investigation Practice and a former member of the firm's national Management Committee.

Mike represents a broad range of clients, with a particular focus on health care litigation, False Claims Act defense, government and internal investigations, and scientific and research misconduct. He has recently been involved in FCA matters involving Medicare Advantage as well as assisting various health care entities, including "High Impact Target" hospitals, avoiding FCA liability in connection with the CARES Act, the Paycheck Protection Program, and the Health Care Enhancement Act.

Mike's extensive experience includes ERISA and RICO class actions, False Claims Act (FCA) litigation, and the defense of both organizations and individuals in Justice Department and SEC investigations. He is particularly skilled in investigating and defending academic institutions in connection with claims of scientific misconduct and research misconduct. And he was named "Lawyer of the Year" in Boston for Bet-the-Company Litigation in both 2018 and 2020 by *Best Lawyers in America*.

Earlier in his career, Mike served as an Assistant U.S. Attorney in the Major Crimes and Organized Crime Strike Force units of the U.S. Attorney's office in Boston. Between his prosecutorial experience and his private practice, Mike has tried more than 20 cases to decision. He has also argued nearly 20 appeals in state and federal appellate courts across the country.

Mike has been appointed a Special Assistant Attorney General on several occasions, including four appointments to represent Massachusetts Govs. William F. Weld and A. Paul Cellucci in constitutional cases involving the scope and effect of the governor's veto power. A U.S. District Judge appointed Mike to

investigate allegations of document destruction and attorney misconduct. Mike also served as an expert witness to the Royal Courts of Justice in London to give opinion evidence on the application of U.S. law to the Latin American syndicated debt market.

"He's a terrific, standout lawyer and very intelligent," according to *Chambers & Partners, USA.* "His experience, his writing and his judgment are all strong."

Mike received his A.B. from Harvard College, summa cum laude, and his J.D. from Harvard Law School, magna cum laude. He now serves as a trial adviser at Harvard Law School's Trial Advocacy Workshop and judges its Ames Moot Court program. He also has taught at the Harvard School of Public Health's Continuing Education Program on Corporate Compliance and is a frequent writer and speaker on civil and criminal jurisprudence, with a special emphasis on the law of research and scientific misconduct.

Mike has devoted significant time to litigating special education cases on a pro bono basis. He has helped make new law in the First Circuit on behalf of special needs families who have been forced by financial constraints to leave their place of residence. For his pro bono work, the Massachusetts Supreme Judicial Court's Standing Committee on Pro Bono Legal Services awarded Mike its Certificate of Recognition in 2007.

Mike is a member and former chair of the Advisory Board of the Smithsonian Astrophysical Observatory, a component of the Center for Astrophysics | Harvard & Smithsonian and serves on the Smithsonian New England Regional Council.

Awards and Recognition

- Named Best Lawyers® 2018 and 2020 Bet-the-Company Litigation "Lawyer of the Year" in Boston
- Selected by his peers for inclusion in *The Best Lawyers in America*® in the fields of:
    - Bet-the-Company Litigation (2010-2024)
    - Commercial Litigation (2007, 2010-2024)
    - Criminal Defense: White-Collar (2007, 2011, 2013-2023)
    - Health Care Law (2018-2023)
- Recognized in *Chambers USA: America's Leading Lawyers for Business* in the practice areas of:
    - Litigation: General Commercial (2004-2024)
    - Litigation: White-Collar Crime & Government Investigations (2004-2015)
- Top 100 *Massachusetts Super Lawyers*® (2004-present)

Presentations and Publications

- Co-author, "The 25th Anniversary of the Business Litigation Session: A Look Back," *Boston Bar Journal* (Fall 2024)
- Co-author, "Decentralized Clinical Trials: Research Misconduct Risks & How to Avoid Them," *Health Care Law Today* (September 30, 2024)
- Co-author, "Medicare Advantage: A Circuit Court Addresses What is (or is not) Material in False Claims Act Cases," *Health Care Law Today* (September 18, 2024)

- Co-author, "Business Litigation Session 2023 Year in Review," *Mass. Lawyers Weekly*.
- Author, "'Let's Talk Compliance': Medicare Advantage: Compliance Issues and Enforcement" *Health Care Law Today* (March 12, 2024)
- Co-author, "HRSA Uninsured Program COVID-19 Services: What Were the Standards to Determine Uninsured Status?" *The National Law Review* (August 17, 2023)
- Speaker, "Supreme Court's EPA Ruling Jeopardizes Healthcare Regulations," *Modern Healthcare* (July 12, 2022)
- Co-author, "Massachusetts Business Litigation Session," *American Bar Association Recent Developments in Business Courts 2022* (February 2, 2022)
- Co-author, "Protecting Your Institution from False Claims Act Allegations After Receipt of CARES Act Funding," *American Health Law Association* (November 11, 2020)
- Co-author, "Year in review: the Business Litigation Session, 2019," *Massachusetts Lawyers Weekly* (January 2020)
- Co-author, "Provisional Remedies," *Practical Law (*October 2019)
- Co-author, "Commencing an Action: Massachusetts," *Practical Law (*April 2019)
- Panelist/speaker: *The Business Litigation Session: Year in Review 2018*, presented by Social Law Library and Mass. Lawyers Weekly (January 2019)
- Co-author, "That 'Hot' Research Project May Land Your Lab in Hot Water," *Compliance Today* (November 2018)
- Co-author, "Responding to a Complaint: Massachusetts," *Practical Law (*November 2018)
- Co-author, "Q&A Litigation Overview: Massachusetts," *Practical Law (*October 2018)
- Panelist, "Government Sponsored Research, Research Integrity, and the False Claims Act," *ABA National Institute to the Civil False Claims Act (*June 2018)
- Panelist, "Understanding the Difference Between Scientific Research, Misconduct and Fraud," ACC (June 19, 2018)
- Co-author, "Scientific research misconduct vs. fraud: How to tell the difference." *Compliance Today (*May 2018)
- Co-author, "The Business Litigation Session Year in Review," *Massachusetts Lawyers Weekly (*January 4, 2018)
- Speaker, "Exhibit (Facebook): The Impact of Social Media on Civil Litigation," Boston Bar Association (October 6, 2016)
- Speaker, "Use and Misuse of ERISA in Out-of-Network Litigation," Blue Cross Blue Shield Summit (May 17, 2016)
- Speaker, "World Recognition of Distinguished General Counsel," The Directors Roundtable (February 2, 2014)

Sectors

- Food & Beverage
- Health Care & Life Sciences
- Racial Justice & Equity

Practice Areas

- Consumer Law, Finance & Class Action Group
- False Claims Act
- Government Enforcement Defense & Investigations
- Litigation
- Privacy, Security & Information Management
- Product Liability
- Securities Enforcement & Litigation

Education

- Harvard Law School (J.D., magna cum laude, 1984)
  - Finalist, Ames Moot Court Competition
- Harvard College (A.B., summa cum laude, 1980)
  - Phi Beta Kappa

Admissions

- Massachusetts
- U.S. Supreme Court
- U.S. Court of Appeals
  - 1st Circuit
  - 2nd Circuit
  - 4th Circuit
  - 5th Circuit
  - 6th Circuit
  - 7th Circuit
  - D.C. Circuit
  - Federal Circuit
- U.S. District Courts
  - District of Massachusetts
  - Eastern District of Michigan
  - Central District of Illinois
  - District of Columbia