

JACOB T. ELBERG

Associate Professor of Law
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EDUCATION

HARVARD LAW SCHOOL, J.D., *magna cum laude*, June 2003

DARTMOUTH COLLEGE, A.B., *cum laude and with Honors*, June 2000

- Editor-in-Chief/President: *The Dartmouth* daily newspaper
- John E. Johnson Journalism Prize

ACADEMIC APPOINTMENTS

SETON HALL UNIVERSITY SCHOOL OF LAW, Newark, NJ

Associate Professor of Law, 2019-Present

Adjunct Professor, 2017-2018

Courses: Health Law; Health Care Fraud & Corruption; Data Analytics; Evidence
Research Center: Center for Health and Pharmaceutical Law and Policy

CLERKSHIP

HON. NANCY GERTNER, U.S. DISTRICT COURT, Boston, MA, 2003-2004

PROFESSIONAL EXPERIENCE

DEPARTMENT OF JUSTICE, 2007-2018

U.S. Attorney's Office, District of N.J.

Chief, Health Care & Government Fraud Unit, 2013-2018

Deputy Chief, Health Care & Government Fraud Unit, 2011-2013

Assistant U.S. Attorney, 2007-2018

- Department of Justice Director's Award for Superior Performance as an AUSA (2013)
- Health & Human Services OIG Award for Fighting Fraud, Waste, and Abuse (2018)

DWYER & COLLORA, LLP (now HOGAN LOVELLS), Boston, MA, 2005-2007

Associate

LATHAM AND WATKINS, San Francisco, CA, Summer 2002

Summer Associate

HALE AND DORR, LLP (now WILMERHALE), New York, NY, Summer 2001

Summer Associate

PUBLICATIONS

A Path to Data-Driven Health Care Enforcement, UTAH L. REV. ____ (forthcoming 2020)

- Selected for presentation at Harvard Law School Health Law Policy, Bioethics, and Biotechnology Workshop, Cambridge, Massachusetts, December 2, 2019
- Selected for presentation at the 2019 ASLME Health Law Scholars Workshop, St. Louis University, St. Louis, MI (September 13, 2019)
- Featured on *Ropes & Gray Public Disclosure Podcast* (May 20, 2020), <https://www.ropesgray.com/en/newsroom/podcasts/2020/May/Podcast-Public-Disclosure-Cooperating-with-DOJ>

DOJ's New Guidance on Civil Cooperation Credit Provides Some Answers, but the Bigger Question Remains, Harvard Law School Petrie-Flom Center Bill of Health Blog (May 14, 2019)

Does DOJ Actually Reward Cooperation by Health Care Organizations? New Data Raises Questions, Harvard Law School Petrie-Flom Center Bill of Health Blog (April 20, 2019)

FCA Settlement Data Shows Need for Comprehensive Reform, Law360 (February 2019)

Individual Accountability for Corporate Wrongdoing: The Prosecution of OtisMed Corp. CEO Charlie Chi, DEPARTMENT OF JUSTICE JOURNAL OF FEDERAL LAW AND PRACTICE (July 2016) (with Goldstein)

OTHER ACTIVITIES

Vice President, Board of Trustees, Harvard Law School Association of NJ (2014-Present)
USAO Representative & Founding Member, D.N.J. Pretrial Opportunity Program (2015-2018)
Chair, Alumni Board; Member, Board of Proprietors, *The Dartmouth* (2008-2014)

BAR MEMBERSHIPS

Admitted to practice in Massachusetts (2003), New Jersey (2007), and New York (2010)

SELECTED SPEAKING ENGAGEMENTS

"Health Care Fraud Means Never Having to Say You're Sorry," invited faculty colloquium paper presenter, Syracuse University College of Law Faculty Workshop, Syracuse University College of Law, Syracuse, New York, September 17, 2020

"Analyzing Disputes Over Fraud and Abuse in Government Healthcare Programs," (with Michael Clark, John Richter, and Linda Wawzenski), Advanced Forum on Managed Care Disputes and Litigation (American Conference Institute), Chicago, Illinois (July 22, 2020)

"Cooperating with DOJ," *Public Disclosure Podcast*, <https://www.ropesgray.com/en/newsroom/podcasts/2020/May/Podcast-Public-Disclosure-Cooperating-with-DOJ>, May 20, 2020

"U.S. Internal Investigations Forum," Paul Hastings LLP Forum, New York, New York, March 6, 2020

"Health Care Litigation and Investigations," (with William Michael and Jonathan Wilson), Mayer Brown Life Sciences Law Symposium, Newark, New Jersey, February 27, 2020

"Managing Risks Across Electronic Platforms," (with Natalie Huber, Seth Lundy, and Donna White), Pharmaceutical Compliance Forum Annual Meeting, New York, New York, February 25, 2020

"Establishing Liability in FCA Cases Through Statistical Sampling: When Does it Belong in False Claims Act Litigation" (Panel), 7th Advanced Forum on False Claims and Qui Tam Enforcement (American Conference Institute), New York, New York, January 27, 2020

“Enforcement Trends in Health Care Law – Overview and Lessons Learned in 2019” (with Laura Laemmle-Weidenfeld), Practising Law Institute (PLI) Hot Topics in Health Care Law 2019, New York, New York, December 11, 2019

“Corporate Health Care Enforcement at a Crossroads: Newly Available Data and the Need for Comprehensive False Claims Act Reform,” Harvard Law School Health Law Policy, Bioethics, and Biotechnology Workshop, Cambridge, Massachusetts, December 2, 2019 (invited)

“Thoughts from a Former Government Prosecutor on Data Analytics, Monitoring and Measuring Compliance Effectiveness,” Pharmaceutical and Medical Device Compliance Congress (Global Health Care Life Sciences, LLC), Washington, D.C., November 8, 2019

“Data Analytics” (with Michael Driscoll and Stacy Aiken), Seton Hall Law School Health Care Compliance Certification Program, Newark, New Jersey, October 16, 2019

“Relationship Between Ethics & Legal Compliance,” Seton Hall Law School Health Care Compliance Certification Program, Newark, New Jersey, October 14, 2019

“Healthcare Enforcement Trends” (Panel), Practising Law Institute (PLI) Life Sciences 2019: Navigating Legal Challenges in the Drug and Device Industries, New York, New York, October 10, 2019

“Ethical Behavior & Compliance: Lessons Learned from the Department of Justice,” SEHA, Abu Dhabi, UAE, October 1, 2019

“Travel Act Case Studies: Anti-Kickback Implications & the Future of Federal Enforcement,” (with Katherine Pfeifle and Andrew Wirmani) American Health Lawyers Association Fraud and Compliance Forum, Washington, D.C., September 27, 2019

“Corporate Health Care Enforcement at a Crossroads: Newly Available Data and the Need for Comprehensive False Claims Act Reform,” 2019 ASLME Health Law Scholars Workshop, St. Louis, Missouri, September 13, 2019 (selected)

“Trends in Enforcement and Oversight – What Companies Can Do to Ensure Compliance,” (with Anthony Scicchitano) Reimbursement and Access Conference (CBI), Philadelphia, Pennsylvania, August 13, 2019

“Health Care Fraud Enforcement and the Value of Compliance and Cooperation,” (with Jill Anderson, Mark Gaydos, Charles Graybow, and Linda Pissott Reig) BioNJ Legal, Compliance & Regulatory Forum, Newark, New Jersey, June 19, 2019

“Data Analytics” (with Michael Driscoll and Anna Loveless), Seton Hall Law School Health Care Compliance Certification Program, Newark, New Jersey, June 11, 2019

“Incentivizing Compliant Corporate Behavior Through False Claims Act Settlements: Data Shows Need for Comprehensive Reform,” American Society of Law, Medicine & Ethics Health Law Professors Conference, Chicago, Illinois, June 7, 2019

“U.S. Healthcare Fraud & Enforcement Current & Former Prosecutors Panel,” Pharmaceutical Compliance Congress (CBI), Washington, D.C., April 17, 2019

“Get What You Need and Use What You Get: Dealing with Admissibility and Authenticity of Evidence in Federal Proceedings” (with the Honorable Patty Shwartz, the Honorable Stanley R. Chesler, Rachael Honig, and Joseph P. LaSala), Association of the Federal Bar of New Jersey, Newark, New Jersey, April 10, 2019

“Compliant Patient Support and Hub Services Safeguards” (with Paul Kaufman), Hub and SPP Model Optimization Conference (CBI), Philadelphia, Pennsylvania, February 26, 2019

“Blockchain: Conceptualizing Emerging Technology, Law, and Best Practices” (with Professor Najarian Peters), Understanding New Tech for Corporate and Business Lawyers: Demystifying Artificial Intelligence, Blockchain Technology, and other New Tech Tools for Managing Legal and Business Risks, NJICLE, New Brunswick, New Jersey, January 31, 2019

“Statistical Sampling and Extrapolation in False Claims Act Litigation” (Panel), 6th Advanced Forum on False Claims and Qui Tam Enforcement (American Conference Institute), New York, New York, January 29, 2019

“Government Views on Pharma Data Analytics” (with Eric Rubinstein), Data Analytics and Decisions Conference (CBI), Philadelphia, Pennsylvania, January 23, 2019

“Enforcement Trends in Health Care Law – Overview and Lessons Learned in 2018” (with Laura Laemmle-Weidenfeld), Practicing Law Institute (PLI) Hot Topics in Health Care Law 2018, New York, New York, December 12, 2018

“Enforcement Oversight” (with Paul Kaufman), Nurse Educator Programs Conference (CBI), Philadelphia, Pennsylvania, November 27, 2018

“Healthcare Enforcement Trends” (Panel), Practicing Law Institute (PLI) Life Sciences 2018: Navigating Legal Challenges in the Drug and Device Industries, New York, New York, November 16, 2018

“FCPA Enforcement Update” (Panel), Pharmaceutical and Medical Device Compliance Congress (Global Health Care Life Sciences, LLC), Washington, D.C., November 8, 2018

“Transparency & Data Analytics” (with Chris Harwood), Seton Hall Law School Health Care Compliance Certification Plus Program, Newark, New Jersey, October 12, 2018

“Recent Developments in Federal Health Care Fraud Enforcement & the Value of Compliance and Cooperation” (Presentation), and “Being the Focus of a Government Investigation” (Panel), Seton Hall Law School Health Care Compliance Certification Program, Newark, New Jersey, October 11, 2018

“Enforcement Trends and Compliance Strategies for Addressing the Opioid Crisis” (with Michael J. Cohen and Tony R. Maida), American Health Lawyers Association Fraud and Compliance Forum, Washington, D.C., September 28, 2018

“Transparency & Data Analytics” (with Chris Harwood), Seton Hall Law School Health Care Compliance Certification Plus Program, Newark, New Jersey, June 15, 2018

“Enforcement Trends and Compliance Strategies for Addressing the Opioid Crisis” (with Michael J. Cohen and Tony R. Maida), Webinar, June 14, 2018

“Recent Developments in Federal Health Care Fraud Enforcement & the Value of Compliance and Cooperation” (Presentation), and “Being the Focus of a Government Investigation” (Panel), Seton Hall Law School Health Care Compliance Certification Program, Newark, New Jersey, June 14, 2018

“The Enforcers Speak” (Panel), Forum on Fraud and Abuse in the Sales and Marketing of Drugs and Medical Devices (American Conference Institute), Boston, Massachusetts, March 6, 2018

“Government Prosecutors Panel: How Government Decides to Litigate and Its Approach to Dealing with an Active Relator Bar” (Panel), 4th Advanced Forum on False Claims and Qui Tam Enforcement (American Conference Institute), New York, New York, January 30, 2018

“Use the past to predict the future ... An overview of key fraud and abuse matters from 2017” (Webinar), Health Care Compliance Association, January 17, 2018

“Enforcement Trends in Health Care Law” (with Laura Laemmle-Weidenfeld), Practicing Law Institute (PLI) Health Care Law Institute 2017: The New Challenges Facing Providers – Reimbursement, Enforcement, Compliance, and other Hot Topics, New York, New York, December 14, 2017

“Government Enforcement Priorities vis-à-vis Drug and Device Products Liability Matters” (Panel), Drug and Medical Device Litigation (American Conference Institute), New York, New York, December 6, 2017

“Weapons in DOJ’s Arsenal: Prosecutions under the Travel Act” (Panel), American Bar Association (ABA) 15th Annual Washington Health Law Summit, Washington, D.C., December 4, 2017

“DOJ Perspective: The Importance of Proactive Processes, Controls, and Data Analysis” (Keynote Address), QuintilesIMS Compliance & Transparency Conference, Parsippany, New Jersey, October 25, 2017

“Enforcement Trends Impacting the Drug and Device Industries” (Panel), Practicing Law Institute (PLI) Life Sciences 2017: Navigating Legal Challenges in the Drug and Device Industries, New York, New York, October 5, 2017

“Parallel Proceedings” (Class), Department of Justice National Advocacy Center Advanced Affirmative Civil Enforcement Seminar, Columbia, South Carolina, October 4, 2017

“Recent Developments in Federal Health Care Fraud Enforcement & the Value of Compliance and Cooperation” (Presentation), and “Being the Focus of a Government Investigation” (Panel), Seton Hall Law School Health Care Compliance Certification Program, Newark, New Jersey, June 15, 2017

“U.S. Healthcare Fraud Enforcement – Trends and Top Priorities” (Panel), Pharmaceutical Compliance Congress (CBI), Washington, D.C., April 27, 2017

“Understanding and Navigating the Federal Sentencing Minefield” (Panel), Rutgers Law School C. Willard Heckel Inn of Court, Newark, New Jersey, March 23, 2017

“U.S. Department of Justice Keynote Address: FCPA Pilot Program and Key Updates from the DOJ” (Webinar), Global Compliance Congress (CBI), February 21, 2017

“Hot DOJ/OIG Enforcement Trends for 2017 – Are you Prepared?” (Webinar), American Health Lawyers Association, January 19, 2017

“Healthcare Enforcement Trends” (Panel), Practising Law Institute (PLI) Life Sciences 2016: Navigating Legal Challenges in the Drug and Device Industries, New York, New York, November 2, 2016

“Recent Developments in Federal Health Care Fraud Enforcement & the Value of Compliance and Cooperation” (Presentation), and “Being the Focus of a Government Investigation” (Panel), Seton Hall Law School Health Care Compliance Certification Program, Newark, New Jersey, October 27, 2016

“AUSA Roundtable” (Panel), Pharmaceutical and Medical Device Compliance Congress (Global Health Care Life Sciences, LLC), Washington, D.C., October 19, 2016

“The Prosecution Rests: Views from a Seasoned DOJ Prosecutor on Government Enforcement in Medical Device Cases” (Presentation), Gray Sheet and King & Spalding LLP Medical Device Summit, Washington, D.C., October 5, 2016

“Criminal Violations of the Anti-Kickback Statute” (Panel), Department of Justice National Health Care Fraud Training Conference, Washington, D.C., September 16, 2016

“Recent Developments in Federal Health Care Fraud Enforcement & the Value of Compliance and Cooperation” (Presentation), and “Being the Focus of a Government Investigation” (Panel), Seton Hall Law School Health Care Compliance Certification Program, Newark, New Jersey, June 16, 2016

“Bribes, Kickbacks, and Other Payoffs: Navigating the Ethical and Legal Landmines” (Panel), New Jersey Corporate Counsel Association Life Sciences Breakfast Series, Roseland, New Jersey, April 21, 2016

“Compliance Skills: Transparency/Data Analytics” (Guest Lecturer – Compliance Skills), Seton Hall Law School, Newark, New Jersey, March 31, 2016

“Prosecuting and Defending Health Care Fraud Cases” (Guest Lecturer – Health Care Fraud and Corruption), Seton Hall Law School, Newark, New Jersey, March 29, 2016

“Combating Health Care Fraud: Partnering with the DOJ” (Presentation), Eastern Claims Conference, New York, New York, March 15, 2016

“Key Government Enforcement issues: The Yates Memo, First Amendment Developments, and More” (Panel), Seton Hall Law School and Sidley Austin LLP Life Sciences College: U.S. Pharmaceutical, Biotechnology and Medical Device Regulatory, Compliance and Corporate Update, New York, New York, March 10, 2016

“U.S. Attorney’s Office Roundtable: The Enforcers Speak” (Panel), Forum on Fraud and Abuse in the Sales and Marketing of Drugs and Medical Devices (American Conference Institute), Boston, Massachusetts, March 9, 2016

“Fundamentals of Prosecuting and Defending a Whistleblower Lawsuit” (Panel), New Jersey State Bar Association, Health Law Section, New Brunswick, New Jersey, March 3, 2016

“Recent Developments in Health Care Fraud and Abuse Investigation by the Department of Justice” (Webinar), Health Care Compliance Association, February 23, 2016

“Top Trends and Red Flags from Government Enforcers on What Will Land Drug and Device Companies in Hot Water” (Panel), Promotional Review Compliance for Drugs and Devices (American Conference Institute), Philadelphia, Pennsylvania, January 12, 2016

“Understanding Government’s Enforcement Priorities vis-à-vis Drug and Device Products Liability Matters” (Panel), Drug and Medical Device Litigation (American Conference Institute), New York, New York, December 3, 2015

“Trends and Top Priorities in U.S. Healthcare Fraud Enforcement” (Panel), West Coast Compliance Congress (CBI), San Francisco, California, November 4, 2015

“Healthcare Enforcement Trends” (Panel), Practising Law Institute (PLI) Life Sciences 2015: Navigating Legal Challenges in the Drug and Device Industries, New York, New York, October 28, 2015

“Recent Developments in Federal Health Care Fraud Enforcement & the Value of Compliance and Cooperation” (Presentation), and “Being the Focus of a Government Investigation” (Panel), Seton Hall Law School Health Care Compliance Certification Program, Newark, New Jersey, October 15, 2015

“United States of America v. OtisMed Corp. & Charlie Chi – a Case Study” (Presentation), Executive Office of U.S. Attorneys Individual Accountability Initiative Conference, Washington, D.C., September 17, 2015

“Update on Trends in Government Enforcement” (Presentation), Forum on Transparency & Aggregate Spend (CBI), Washington, D.C., August 18, 2015

“Developing Cases Through DOJ Relationships” (Panel), Executive Office of U.S. Attorneys Affirmative Civil Enforcement Conference, Philadelphia, Pennsylvania, July 14, 2015

“Recent Developments in Federal Health Care Fraud Enforcement & the Value of Compliance and Cooperation” (Presentation), and “Being the Focus of a Government Investigation” (Panel), Seton Hall Law School Health Care Compliance Certification Program, Newark, New Jersey, June 11, 2015

“Enforcers Spotlight – Preparing for the Next Wave of Enforcement” (Panel), Sunshine Act, Open Payments, and Aggregate Spend Compliance Conference (American Conference Institute), Chicago, Illinois, June 9, 2015

“Cost of Fraud: What are the Implications of Fraud on the Entire System?” (Panel), Rutgers Institute for Ethical Leadership: 2015 Ethical Leadership Conference – Ethics Implied: Leadership in Health Care, New Brunswick, New Jersey, April 30, 2015

“Medical Device Investigations and Prosecutions” (Class), Department of Justice National Advocacy Center Healthcare Fraud Seminar, Columbia, South Carolina, April 29, 2015

“Advanced Negotiation Skills” (Guest Lecturer – Class taught by Honorable Michael A. Shipp, U.S.D.J.), Seton Hall Law School, Newark, New Jersey, April 7, 2015

“Trends in Federal and State Health Care Enforcement” (Presentation), Essex County Medical Society, Belleville, New Jersey, March 31, 2015

“Q&A with the DOJ – Enforcement Trends and Top Priorities” (Panel), Compliance Monitoring Programs (CBI), Philadelphia, Pennsylvania, March 18, 2015

“U.S. Attorney’s Office Roundtable: The Enforcers Speak” (Panel), Forum on Fraud and Abuse in the Sales and Marketing of Medical Devices and Pharmaceuticals (American Conference Institute), Boston, Massachusetts, March 12, 2015

“U.S. Healthcare Fraud Enforcement – Trends and Top Priorities” (Panel), Pharmaceutical Compliance Congress (CBI), Washington, D.C., March 3, 2015

“Recent Trends in Federal Enforcement” (Panel), Medical Device and Diagnostics Compliance Congress (CBI), Chicago, Illinois, February 12, 2015

“Federal Fraud Enforcement: Impact of Open Payments and other Hot Topics” (Keynote Speech), Compliance Exchange Conference, Princeton, New Jersey, October 28, 2014

“Bracing for the Most Likely Enforcement Actions once Sunshine Data is Public” (Panel), Sunshine Act, Open Payments, and Aggregate Spend Compliance Conference (American Conference Institute), New York, New York, October 21, 2014

“Health Care and Insurance Fraud Prosecutions: Emerging Trends in Prosecution and Creative Defenses” (Panel), Association of Criminal Defense Lawyers Conference, West Orange, New Jersey, October 18, 2014

“Recent Developments in Federal Health Care Fraud Enforcement & the Value of Compliance and Cooperation” (Presentation), and “Being the Focus of a Government Investigation” (Panel), Seton Hall Law School Health Care Compliance Certification Program, Newark, New Jersey, October 16, 2014

“Best Practices in Promotional Messaging and Dissemination of Scientific Information to Health Care Providers to Minimize Risk and Exposure” (Panel), New Jersey Corporate Counsel Association Life Sciences Breakfast Series, Roseland, New Jersey, September 23, 2014

“Health Care Fraud from Opposite Sides of the Hudson River” (Panel), American Health Lawyers Association Conference, New York, New York, July 1, 2014

“Recent Developments in Federal Health Care Fraud Enforcement & the Value of Compliance and Cooperation” (Presentation), and “Being the Focus of a Government Investigation” (Panel), Seton Hall Law School Health Care Compliance Certification Program, Newark, New Jersey, June 12, 2014

“Government Roundtable” (Panel), Reducing Legal Risks in the Sales and Marketing of Medical Devices Conference (American Conference Institute), Chicago, Illinois, April 9, 2014

“Update on Government Enforcement and Compliance” (Panel), Seton Hall Law School & Sidley Austin LLP Life Sciences College: U.S. Pharmaceutical, Biotechnology and Medical Device Regulatory, Compliance and Corporate Update, New York, New York, April 3, 2014

“Recent Trends in State and Federal Enforcement – Complaints, Investigations, and Settlements with Federal Prosecutors” (Panel), Medical Device and Diagnostics Compliance Congress (CBI), Chicago, Illinois, February 25, 2014

“Federal and State Health Care Fraud Enforcement” (Presentation), and “Being the Focus of a Government Investigation” (Panel), Seton Hall Law School Health Care Compliance Certification Program, Newark, New Jersey, October 17, 2013

“Parallel Proceedings in Government Investigations” (Panel), U.S. Attorney’s Office, District of New Jersey, Newark, New Jersey, June 27, 2013

“Avoiding Individual Liability under the Responsible Corporate Officer Doctrine: The Implications of Vigorous Enforcement for Corporate Officers and Counsel” (Panel), Reducing Legal Risks in the Sales and Marketing of Medical Devices Conference (American Conference Institute), Chicago, Illinois, April 30, 2013

“Discovery Protocol Regarding Electronically Stored Information (ESI)” (Panel), 2013 CJA Seminar (Association of the Federal Bar of New Jersey; Association of Criminal Defense Lawyers of New Jersey; Federal Public Defender Office), New Brunswick, New Jersey, January 26, 2013

“The Maxim Healthcare Fraud and the False Claims Act,” 2012 NHCAA Annual Training Conference (National Healthcare Anti-Fraud Association), Anaheim, California, November 15, 2012

“Investigating Financial Fraud Schemes – Nevin Shapiro and the Capitol Investments Ponzi Scheme Investigation,” 2012 FBI CPA Conference, Columbus, Ohio, May 7, 2012

“The Maxim Healthcare Fraud and the False Claims Act,” 2012 Maryland Fraud Conference, Association of Certified Fraud Examiners, Baltimore, Maryland, April 30, 2012