



## One Atlantic Center

1201 West Peachtree St. NW  
Suite 3900  
Atlanta, GA 30309

## Education

University of Virginia School  
of Law, J.D., 1999

- Order of the Coif
- Editor, *Virginia Law Review*
- Associate Editor /  
Executive Editor,  
*Virginia Law Weekly*

University of Texas, B.A.,  
1995

## Previous Experience

Law Clerk, Judge Eugene  
Davis, United States Court  
of Appeals for the Fifth  
Circuit, 1999-2000

## Admissions

State Bar of Georgia  
U.S. Supreme Court  
U.S. Court of Appeals for  
the Eleventh Circuit  
U.S. Court of Federal  
Claims  
U.S. District Court for the  
Middle District of Georgia

## Benjamin E. Fox, Partner

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Ben Fox represents clients in litigation and investigations involving allegations of fraud and white collar crime. His civil practice concentrates on actions brought under the False Claims Act, RICO Act, Sarbanes-Oxley Act, Computer Fraud and Abuse Act, and other fraud-based private causes of action. Ben also specializes in conducting internal investigations and representing organizations during government investigations involving health care fraud, securities fraud, bankruptcy fraud, and tax fraud.

While a majority of his practice involves defending corporations and executives accused of fraud, Ben also represents a small number of whistleblowers in federal and state False Claims Act cases. He is also a frequent writer and speaker for various professional-interest organizations and publications, such as the Georgia Institute of Continuing Legal Education (ICLE), ABA books and periodicals, *Civil RICO Report* and the *Atlanta Business Chronicle*.

## Representative Work

### Plaintiff cases

- Represented two whistleblowers in a False Claims Act case against a pharmaceutical company for illegal, off-label marketing of Nuedexta for unapproved uses in long term care facilities and payment of kickbacks to high-prescribing physicians. The case resulted in a \$166 million global civil/criminal settlement. *U.S. ex rel. Arnold, et al. v. Avanir Pharmaceuticals, Inc.*, 1:15-cv-1250 (N.D. Ga.).
- Represented two whistleblowers in a False Claims Act action case a global pharmaceutical company for illegal, off-label marketing of Botox for unapproved uses. The case resulted in a \$600 million global civil/criminal settlement, the largest recovery in an FCA case in Georgia history and in the top 25 of all time when it was resolved. *U.S. ex rel. Lang, et al. v. Allergan, Inc.*, 1:07-cv-1288 (N.D. Ga.).
- Represented five whistleblowers in a False Claims Act case against a nationwide nursing home chain for systemic failure of care at a local facility. The case resulted in a \$2.5 million settlement, the largest FCA recovery involving failure of care in a single skilled nursing facility at the time. *U.S. ex rel. Chadwick et al. v. Life Care Centers of America, Inc. et al.*, 02-cv-3177 (N.D. Ga.).
- Represented whistleblower in a False Claims Act case against a medical billing company for altering diagnosis codes on Medicare and Medicaid claims to assure their payment. The case resulted in a \$1.95 million settlement. *U.S. ex rel. Vaughn v. Med. Bus. Serv.*, 1:10-cv-02953 (N.D. Ga.).
- Successfully defended a sizeable jury award secured by a chemical sales company in a civil RICO trial in two appeals to the Supreme Court of Georgia. In these cases, the Georgia Supreme Court recognized, for the first time, that corporations can be sued under the Georgia RICO Act and that the preponderance-of-the-evidence burden of proof applies to such claims. *Williams General Corp. v. Stone*, 280 Ga. 631, 632 S.E.2d 376 (2006); *Williams General Corp. v. Stone*, 279 Ga. 428, 614 S.E.2d 758 (2005).

U.S. District Court for the  
Northern District of Georgia  
Supreme Court of Georgia  
Georgia Court of Appeals

## **Defense cases**

- Successfully defended a nationwide broker of SBA-backed commercial loans in a False Claims Act action brought by a hedge fund challenging the broker's underwriting practices. Our client's motion to dismiss was granted because the action was based on publicly disclosed information, and the dismissal was upheld by the Eleventh Circuit Court of Appeals. *U.S. ex rel. Brickman and Greenlight Capital, Inc. v. Business Loan Express, LLC et al.*, 2007 WL 4553474 (N.D. Ga. 2007), *aff'd*, 310 Fed. Appx. 322 (11th Cir. 2009).
- Successfully defended a publicly traded durable medical equipment company in a False Claims Act action, obtaining dismissal of the action based on failure of the complaint to satisfy Fed. R. Civ. P. 9(b). The dismissal was upheld by the Eleventh Circuit Court of Appeals, and the U.S. Supreme Court denied the relator's petition for writ of certiorari. *U.S. ex rel. Corsello v. Lincare Inc.*, 2003 WL 25714876 (N.D. Ga. 2003), *aff'd*, 428 F.3d 1008 (11th Cir. 2005); *cert. denied*, 127 S.Ct. 42 (2006).
- Defended multiple occupational therapy and rehabilitation clinics in a False Claims Act action and succeeded in disqualifying the plaintiff's counsel for professional misconduct. The case was subsequently dismissed for failure to prosecute, and the dismissal was upheld by the Eleventh Circuit Court of Appeals. *U.S. ex rel. Roberts-Cook v. Randall Kimball et al.*, No. 97-cv-847 (N.D. Ga.), *aff'd*, 275 F.3d 56 (11th Cir. 2001).

## **Professional Activities**

Member, State Bar of Georgia Long Range Planning & Bar Governance Standing Committee, 2008 - 2013

Vice Chair, Business Torts and Civil RICO Committee, American Bar Association, 2013 - 2015

Chairman, Fulton County Board of Ethics, 2015-2020

## **Honors & Awards**

Georgia Local Litigation Star, Benchmark Plaintiff