

Michael D. McKay

MEMBER

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BIOGRAPHY

With his experience as a former United States Attorney, Mike McKay focuses his practice on white collar criminal defense, commercial litigation, and corporate and government internal investigations.

As U.S. Attorney for the Western District of Washington in Seattle, Mike supervised many prominent lawsuits filed by or against the United States. He made the charging decision in the first flag burning case in America, an action granted direct review by the United States Supreme Court. He reorganized the office to more efficiently handle specialized cases including environmental crime, drugs, and bank fraud, mainstays of the office today.

Since founding McKay Chadwell in 1995, Mike's busy practice calls upon his unique skills to handle legal problems involving federal and local governments and their impact on companies and individuals, including civil, criminal and administrative matters. He represents corporations and corporate officers, as well as physicians and dentists, facing governmental investigations and also a variety of clients in civil litigation.

Private companies and municipal corporations have hired Mike to conduct internal investigations. On rare occasions, the investigation results are made public:

- In 2008, the Port of Seattle hired Mike as counsel for the Special Investigative Committee, which conducted an internal investigation into Port contracting practices. Mike's team found evidence of fraud and other instances where state laws or Port policies were violated, which were documented in the [Report of the Special Investigative Team](#), issued on December 3, 2008. The Report provided a set of recommendations that the Port CEO implemented to improve the Port's compliance and practices and deter fraud.
- In 1999, the City of Seattle asked Mike to investigate police policies and procedures in the wake of allegations that a detective stole money from a homicide victim. Mike served as Vice Chair of a four-member Citizens Review Panel which made more than twenty recommendations to improve

the Seattle Police Department's procedures and oversight. In 2008, Mike served on the Seattle Police Accountability Review Panel, which reviewed the 1999 model and made 29 recommendations, all of which were accepted by the Mayor.

Mike began his career in the King County Prosecuting Attorney's Office, where he served for five years and became a Senior Deputy Prosecuting Attorney who handled cases in the civil, fraud, juvenile, and criminal divisions. He represented the Kingdome in the first major litigation with the Seattle Mariners and was lead prosecutor in the investigation and prosecution of a juvenile prostitution ring. Mike also played a principal role in the implementation of the innovative Washington State Juvenile Justice Act.



EDUCATION

- J.D., Creighton University School of Law
- B.A., with distinction, University of Washington

COURT & BAR ADMISSIONS

Court Admissions

- United States District Court (Western District of Washington & Eastern District of Washington)
- United States Court of Appeals, Ninth Circuit
- United States Supreme Court

Bar Admission

- Washington

REPRESENTATIVE CASES

- Corporate Criminal Defense, Pharmaceuticals – Successful pre-charging white collar criminal defense of a major international pharmaceutical company under investigation by federal prosecutors for alleged wrongdoing in the dissemination of information on the safety and efficacy of pharmaceutical medications. McKay Chadwell, as part of a larger defense team, conducted a rigorous internal investigation into the alleged wrongdoing and coordinated the company's responses to inquiries from the U.S. Attorney's Office in Seattle. After a five-year investigation, review of hundreds of thousands of documents, and presentations to the government, the investigation was closed with no criminal charges or any other governmental enforcement actions.
- Drug Diversion, Civil Penalty Resolution – Successful representation of surgeon investigated by Drug Enforcement Agency (DEA), the Department of Justice (DOJ), and local law enforcement for diverting prescription medications. McKay Chadwell conducted a thorough defense investigation after the client enrolled in Washington Physicians Health Program (WPHP). The firm resolved the matter after negotiation by way of a civil penalty with no criminal charges brought.
- Drug Diversion, Misdemeanor Resolution – Successful representation of anesthesiologist investigated for diversion of pain medication. McKay Chadwell represented the client through a two-year investigation and ultimately resolved felony allegations as a federal misdemeanor with no time in prison and two years of probation. The firm successfully advocated for early termination of supervised release and reinstatement of the anesthesiologist's Drug Enforcement Agency registration so he could return to his active practice.
- LLC Ownership Dispute – Successful civil litigation defense of members of a real estate holding company who were sued in federal court by past members for alleged theft, business torts, and civil violations of the Racketeer Influenced and Corrupt Organizations (RICO) Act. The plaintiffs demanded \$58,000,000.00 in damages. McKay Chadwell successfully obtained dismissal of the lawsuit and an order requiring plaintiffs to pay for defendants' attorney's fees and costs, totaling over \$140,000.00.
- Civil Defense, Parallel Government Investigation - Successful representation of the CEO of a prominent local business in defense against a lawsuit alleging violations of Washington state employment law. McKay Chadwell defended the CEO in depositions that attempted to develop facts that could have criminally inculpated the CEO. After a successful defense of the depositions and a presentation to the Department of Justice suggesting that criminal charges would be unwarranted, the civil lawsuit against the client and the company was resolved. No criminal charges against the client were filed.
- Civil Litigation, Crime Victim Advocacy – Successful representation of real estate developer who was defrauded by his business partner. McKay Chadwell filed suit and secured a \$2,600,000.00 judgment for the client. In proceedings to enforce the judgment, the firm assisted law enforcement in prosecuting the defendant. The client ultimately recovered on his judgment and the defendant was convicted by state prosecutors and continues to serve his sentence in prison.
- Civil Defense, Recoupment of Overpayments – Successful representation of local property investor against a large institutional lender who sought over \$3,000,000.00 in damages and alleged violations of 18 U.S.C. 1962, the civil Racketeer Influenced and Corrupt Organizations

(RICO) Act. McKay Chadwell prevailed in a motion for summary judgment dismissing the plaintiff's claims and recouping overpayments made by the client to the institutional lender. Instead of facing liability in excess of \$10,000,000.00, the client recovered significant funds from the lender.

- **FINRA Arbitration** – Along with prominent New York litigators Kirby McInerney LLP, McKay Chadwell successfully represented local non-profit corporations in FINRA arbitrations against large, institutional banks. The clients alleged various misrepresentations and breaches of statutory and fiduciary duty to the underwriters of their Auction Rate Securities. Kirby McInerney and McKay Chadwell successfully resolved these matters to the clients' satisfaction.
- **Municipal Internal Investigation** – Successfully served as legal counsel for the Special Investigative Committee to the Port of Seattle and conducted an internal investigation into Port contracting practices. McKay Chadwell issued the [Report of the Special Investigative Team](#), which found evidence of fraud in the Port's contracting practices and other instances where state laws or Port policies were violated. The Report provided a set of recommendations to improve the Port's practices, which the Port CEO implemented in full.
- **Public Agency Internal Investigation** – Representation of a regional public agency in an investigation into allegations of deficient internal practices and procedures that could be viewed as criminal. McKay Chadwell reviewed the client's established procedures and interviewed its employees. After a thorough review of applicable statutes and regulations, McKay Chadwell determined that while the client faced no criminal liability, its practices and procedures were deficient and made recommendations that enhanced the agency's performance and improved its internal culture of compliance.
- **Individualized Corporate Compliance Program** – Successfully crafted a comprehensive and tailored compliance program for a prominent local corporation which facilitated its efforts to remain in compliance with federal, local, and industry regulations in numerous heavily-regulated industries. McKay Chadwell worked with the client to develop a corporate compliance structure that not only ensured that the client would remain in compliance with numerous regulatory bodies, but would ensure that the client and its employees could cultivate an environment of high ethics and efficiency. The firm's recommendations, including appointing an independent senior Compliance Officer, creating a Compliance Committee with oversight responsibilities over all aspects of the company, and adopting a Code of Ethics and Standards of Conduct were adopted in full by the client.

AWARDS AND PUBLICATIONS

- Rated by Martindale-Hubbell® Peer review as AV® Preeminent™ 5.0 out of 5*
- Who's Who Legal: Investigations 2016
- Named Washington State Super Lawyer by *Super Lawyers Magazine*

Listed in *Best Lawyers in America*® in Commercial Litigation, Municipal Law, and Criminal Defense: White Collar

- Charles A. Goldmark Award for Distinguished Service (along with John McKay, awarded by the Legal Foundation of Washington), 2008
- Alumni Merit Award, Creighton University School of Law, 2001
- Who's Who in American Law, Who's Who in America

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PUBLIC & CIVIC INVOLVEMENT

- United States Attorney for the Western District of Washington, 1989-1993
- Board of Directors, Legal Services Corporation, 2003-2009, Vice Chair, 2008-2009
- National Association of Former United States Attorneys (NAFUSA), President, 2009
- President, [NAFUSA Foundation](#), 2013-present
- U.S. Attorney General's Advisory Committee, 1990-93, Vice Chair, 1991-93
- Vice-Chair, Washington Citizens Commission on Salaries for Elected Officials, 1999-2001
- Co-Chaired numerous committees charged with assessing applicants for federal judge, Western District of Washington.
- Vice Chair, Review Board (advised the Archbishop of Seattle on clergy molestation allegations), 2002-04
- Chaired numerous political campaigns at the county, state and federal levels.