



# Edmund W. Searby

*partner*

Ned serves as chair of Porter Wright's White Collar Criminal Defense practice area. He is recognized by *Chambers USA* for his "excellent reputation in the area of federal criminal investigations and prosecutions and SEC enforcement actions." With substantial experience as a trial attorney and appellate advocate, he has won a range of challenging and noteworthy cases. Ned brings to his practice over three decades of legal experience in both the public and private sectors. He also has conducted significant independent investigations for leading corporations, public entities and a research university.

## A former federal prosecutor, Ned has served as an Assistant United States Attorney in the Criminal Division of the Department of Justice.

Ned also has served as a special deputy independent counsel in Washington, D.C., and as a member of the Presidential Transition Team (Department of Justice Landing Team).

In addition to his work on criminal matters, he also has substantial experience in complex civil litigation, which often involves underlying criminal issues such as antitrust, securities fraud and RICO cases. He is one of a limited number of litigators in the country who has successfully tried an antitrust class action to a jury verdict.

Currently, Ned teaches criminal procedure at the Case Western Reserve University School of Law, and he has taught full courses at the Cleveland-Marshall College of Law School. He also has spoken at the University of Michigan Law School, national bar conferences, training programs for prosecutors and agents, and National Institute of Trial Advocacy programs.

Ned recently was named by Lawdragon as one of the 500 Leading Litigators in America (White Collar, Investigations; Appellate). Ned has

### CONTACT

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### EDUCATION

University of Michigan Law School,  
J.D., 1990

Dartmouth College, B.A., *cum  
laude*, 1986

### SERVICES

#### Investigations, White Collar Defense & Shareholder Litigation

- Shareholder and derivative litigation
- White collar criminal defense

#### Litigation

- Antitrust litigation
- Commercial litigation
- Securities litigation

#### Antitrust & Consumer Protection

#### Securities

- SEC investigation and enforcement
- Securities litigation

been ranked six times by *Chambers USA* as a leading lawyer in Litigation: White-Collar Crime & Government Investigations. He also is recognized by *The Best Lawyers in America*® and was named a “Lawyer of the Year” in Antitrust Litigation in 2019.

Prior to practicing law, Ned worked as a business analyst for McKinsey & Company in Pittsburgh and as a “stagiaire” in the legal department for a multi-national energy company in Paris, France.

## REPRESENTATIVE MATTERS

### Criminal, Regulatory and Constitutional

- Represented multi-state healthcare company based in Texas with regards to federal criminal investigation. Challenged execution of search warrants on five corporate offices. Argued and won the appeal before the United States Court of Appeals for the Fifth Circuit in *Harbor Healthcare System L.P. v. United States*, 5 F. 4th 593 (5th Cir. 2021).
- Served as co-counsel for a California company and its owner in international arms export act prosecution. After challenge to the government’s conduct of the investigation, the Department of Justice voluntarily dismissed the indictment.
- Won in State Supreme Court extraordinary writs of prohibition and mandamus against seven trial court judges for effectively removing public official from office without due process of law.
- Defended former bank executive in multi-week insider trading trial resulting in defense verdict for client on principal claim of 10b5 securities fraud violation, but against client on Rule 14 tender offer violation.
- Represented Nevada pharmacy in federal criminal investigation as to drug diversion. Resolved diversion investigation without criminal charges against corporation even though the government charged the pharmacist in charge, a physician and others in a drug diversion conspiracy.
- Represented executive of publicly-traded healthcare company in one of the largest fraud investigations in the country’s history. Successfully advocated to the Department of Justice not to charge client (even though they charged other executives), and to the Securities and Exchange Commission not to take action.
- Represented lead defendant in prosecution for alleged massive health care fraud upon private insurance companies. Argued motion to suppress and Fifth and Sixth Amendment challenges to the conduct of the prosecution.
- Represented as lead counsel a Midwest healthcare provider in ongoing federal investigation and related civil action. Following extended oral argument before federal court of appeals, the government closed the matter without bringing criminal charges against corporation or any of its executives.
- Represented executive in investigation of alleged \$1.9 billion scheme to defraud. While the government convicted other executives from the same corporation, no charges were brought against the client.

## SERVICES (CONTINUED)

### Health Care

- Antitrust counseling and litigation, including clinical integration
- Fraud and abuse counseling, defense, prevention and compliance

### International Business & Trade

- Foreign Corrupt Practices Act and anti-bribery laws

- Served as lead counsel on investigation of criminal wrongdoing at the Ohio Treasury, the sixth largest treasury in the United States. Authored report recommending specific remedial actions, which was publicly released.

### Complex Civil Litigation

- Defended medical equipment and device company as lead counsel in a five-week dealer termination trial in New York for which the jury returned a verdict of no liability for client.
- Won a jury verdict as co-counsel in a six-week antitrust conspiracy trial resulting in a \$33 million judgment for a class of industrial companies that sold scrap metal. The United States Courts of Appeals for the Sixth Circuit affirmed.
- Won dismissal of case in a \$42 million wrongful conviction action brought by former death row inmate against Cuyahoga County, Ohio (Cleveland). As lead counsel, successfully argued for affirmance before the United States Court of Appeals for the Sixth Circuit. In recognition for this work, Cuyahoga County awarded Edmund Searby its “Stare Decisis Award for Outstanding Litigation.”
- Represented two publicly-traded corporations as “opt outs” in prosecuting antitrust claims against alleged members of international price-fixing cartels. Settled claims for clients on confidential terms.
- Served as co-lead counsel for plaintiffs in prosecuting securities fraud claims resulting in a \$75 million settlement – the largest settlement of such claims at the time against a biotechnology company.
- Represented biotechnology company (under federal investigation) in declaratory judgment action brought by insurer to void all insurance coverage for punitive damages claims. Won trial as lead counsel resulting in preservation of insurance coverage.
- Represented defendant in arbitration arising from partnership dispute. Arbitrator found no liability against client but sustained counterclaim award in client’s favor.

### SELECTED REPORTED DECISIONS

- *Harbor Healthcare Sys., L.P. v. United States*, 5 F. 4<sup>th</sup> 593 (5<sup>th</sup> Cir. 2021)
- *United States v. \$525,695.24*, 869 F. 3d 429 (6<sup>th</sup> Cir. 2017)
- *D’Ambrosio v. Marino*, 747 F. 3d 378 (6<sup>th</sup> Cir. 2014)
- *United States v. Kumar*, 750 F. 3d 563 (6<sup>th</sup> Cir. 2014)
- *In re Forum Health*, 444 B.R. 848 (N.D. Ohio 2011)
- *In re Scrap Metal Antitrust Litig.*, 527 F. 3d 517 (6<sup>th</sup> Cir. 2008)
- *Joseph v. Coyle*, 469 F. 3d 441 (6<sup>th</sup> Cir. 2006)
- *Capital Med. Sys v. Fuji Med. Sys.*, 705 N.Y.S. 2d 122 (3 Dept. 2000)
- *United States v. Carroll*, 6 F. 3d 735 (11<sup>th</sup> Cir. 1993)
- *United States v. Yount*, 960 F. 2d 955 (11<sup>th</sup> Cir. 1992)

### BAR ADMISSIONS

- Ohio
- Illinois
- U.S. Court of Appeals for the Fifth Circuit
- U.S. Court of Appeals for the Sixth Circuit
- U.S. District Court for the Northern District of Ohio
- U.S. District Court for the Southern District of Ohio
- U.S. District Court for the Northern District of Illinois
- U.S. District Court for the Eastern District of Michigan
- Supreme Court of the United States

### PRESENTATIONS

- “The Federal Criminal Justice Process,” Case Western Reserve University School of Law, Nov. 10, 2023

- “Class Action Trials,” University of Michigan Law School, Nov. 14, 2022
- “The WellCare General Counsel,” Case Western Reserve University School of Law, Nov. 11, 2022
- “Identifying and Detecting Wrongdoing,” Association of Corporate Counsel Northeast Ohio, Sept. 29, 2022
- “Antitrust Cartels and Other Threats to Competition,” Case Western Reserve University Law School, October 2021
- “Prosecutorial Discretion, Neutrality and Ethics in an Age of Politicization,” American University Washington College of Law, March 2019
- “Asset Forfeiture,” Cleveland-Marshall College of Law, March 2018
- “Healthcare Fraud,” Cleveland Metropolitan Bar Association Biennial Institute on White Collar Crime, December 2016

#### PUBLICATIONS

- “A broadening consensus to narrow asset forfeiture,” *Business Crimes Bulletin*, August 2017
- “Is your company ready for a government raid?,” *Today’s General Counsel*, August 2015
- “Private antitrust litigation – Class actions,” *The Antitrust Review of the Americas, Global Competition Review*, August 2014

#### PROFESSIONAL ASSOCIATIONS

- American Bar Foundation, Fellow

#### HONORS | AWARDS

- Lawdragon 500 Leading Litigators in America
- Cuyahoga County, Stare Decisis Award for Outstanding Litigation
- *Chambers USA*, Litigation: White-Collar Crime & Government Investigations
- *The Best Lawyers in America*®
- *The Best Lawyers in America*® “Lawyer of the Year,” Antitrust Litigation, Cleveland, Ohio, 2019

#### COMMUNITY

- Board of Directors, Achievement Centers for Children, 2013-2016
- Cleveland-Marshall College of Law, Adjunct Professor
- Case Western Reserve University Law School, Guest Lecturer