



## Thomas C. Ryan

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## OVERVIEW

Thomas Ryan is a trial lawyer who represents clients subject to government enforcement actions, conducts sensitive internal investigations, and litigates bet-the-company cases in both federal and state courts. As a former federal prosecutor, Thomas brings the courtroom perspective when shaping the response to any government enforcement action. His trial-ready strategy has earned him a reputation as a go-to lawyer for companies facing complex white-collar criminal and civil enforcement matters. Thomas is also routinely entrusted with leading clients' most sensitive internal investigations, often involving C-Suite implications. As an acknowledgement of the breadth and depth of his experience, Thomas has been repeatedly recognized in two categories of *Chambers USA* and *Best Lawyers* both for white-collar defense and the energy litigation, as well as The Legal 500.

Thomas complements his criminal practice with a complex commercial litigation practice, focused primarily on the energy and health care industries. In the energy space, he routinely represents upstream and midstream members of the unconventional gas industry active in the Marcellus and Utica Shale formations lying under Pennsylvania, Ohio, and West Virginia. His energy practice has evolved with the ever-changing technological landscape, leading him to represent a number of traditional oil and gas producers who are embarking into the digital-asset mining industry. As his practice in that emerging industry has continued to grow, Thomas serves on the firm's internal digital asset task force, which is a cross-practice group, cross-office effort to coordinate and grow the firm's borderless digital asset practice.

In the health care sector, Thomas is also an active member of the firm's Health Care Fraud task force, a cross-practice collaboration between the firm's internationally recognized Health Care and White Collar Defense and Investigation practice groups. As part of that group, Thomas actively defends a broad spectrum of health care providers in various forms of qui tam actions, involving allegations of violations of the False Claims Act, the Anti-Kickback Statute, and Stark Law.

## PROFESSIONAL BACKGROUND

Thomas began his legal career with K&L Gates, where he gained broad international experience representing clients on a variety of commercial litigation matters. This was highlighted by a year-long secondment at an international construction client collaborating with an Italian joint-venture partner to design and construct an

offshore gas-to-liquids facility in the Niger Delta, which provided a tremendous professional growth opportunity, as he was consistently called upon to provide sharp legal analysis under unrelenting time constraints.

After several successful years with the firm, Thomas served as an assistant U.S. attorney in the white collar crime section for the U.S. Attorney's Office for the Southern District of West Virginia. Thomas tried numerous cases to jury verdict and argued a number of appeals before the Fourth Circuit Court of Appeals. Thomas focused his efforts on political and business corruption, ranging from the conviction of several elected officials in a voter-fraud conspiracy to a coal company executive involved in a multimillion-dollar kickback scheme. Having tried the full spectrum of federal crimes, including Titles 18, 21, 26, and 31 of the U.S. Code, Thomas returned to private practice at K&L Gates in 2014.

In 2015, Thomas had the privilege of being appointed special counsel to the Pennsylvania State Senate's bipartisan Special Committee on Senate Address, which was constituted to consider the removal of then-Attorney General Kathleen Kane, a historical constitutional moment in the commonwealth's history.

Further, in 2018, Thomas was entrusted by the Supreme Court of Appeals of West Virginia to represent the institution in coordinating its cooperation with multiple federal grand jury investigations and overlapping impeachment proceedings involving alleged misconduct of certain sitting members of the court.

As an example of the breadth of Thomas's experience, beginning in late 2016 he guided a global nuclear engineering company through a sensitive accounting fraud internal investigation, which culminated in a multi-billion dollar bankruptcy and ultimately led to a parallel federal and state criminal fraud investigation. Beginning with a cross-border, multi-jurisdictional investigation involving multi-lingual document review and interviews in late 2016, Thomas managed a team of dozens of lawyers and consultants to deliver a thorough, independent, and objective internal investigation to allow the client to obtain an audited balance sheet and facilitate its emergence from bankruptcy in 2018. Following the completion of the internal investigation in late 2017, federal and state law enforcement launched a multi-year securities and account fraud criminal investigation. Thomas led a team that ultimately resulted in securing a prosecution declination of the company in the summer of 2021 from both federal and state law enforcement, as the parallel criminal proceedings continued against the company's former executives. This five-year long engagement involved the entire gamut of legal issues that arise in any cross-border internal investigation and federal criminal prosecution and underscore Thomas's ability to handle the most complex and sensitive matters.

Thomas also devotes a substantial amount of his time to many of the firm's worthy pro bono efforts, including mentoring law students through the Leadership Council for Legal Diversity, serving on the Criminal Justice Act Panel for the U.S. District Court for the Western District of Pennsylvania, and as an independent director on the board of PLEA Agency, Inc., a nonprofit organization committed to educating and improving the quality of life for individuals of all ages with behavioral or developmental disabilities.

## ACHIEVEMENTS

- Recognized by *Chambers USA* in Pennsylvania
  - Litigation: White-Collar Crime & Government Investigations, 2020-2023

- Energy & Natural Resources, 2021-2023
- Recognized by *The Best Lawyers in America*® in Pittsburgh, 2023-2024
  - Criminal Defense: White-Collar
  - Litigation - Regulatory Enforcement (SEC, Telecom, Energy)
- Recognized by *The Legal 500 United States* for Investigations and White-Collar Criminal Defense, 2019-2023

## PROFESSIONAL / CIVIC ACTIVITIES

- Leadership Pittsburgh, 2021 Class XXXVIII
- Leadership Council on Legal Diversity, Law Student mentor
- Independent Director of PLEA Agency, Inc.
- United Way of Southwestern Pennsylvania, Tocqueville Society member
- WDPA Criminal Justice Act Panel member
- American Bar Association, Criminal Justice Section member
- Allegheny County Bar Association, Federal Court Section member
- Energy & Mineral Law Foundation Strategic Planning Committee member
- Republican National Lawyers Association member
- The Federalist Society member
- McCandless Township Republican Executive Committee member

## SPEAKING ENGAGEMENTS

- Thomas C. Ryan, “*Race to the Truth: Leveraging Data Analytics in Government Investigations*,” Pittsburgh Chief Compliance Officer Roundtable Fall 2023 meeting, Pittsburgh, P.A., 1 November 2023
- Thomas C. Ryan and Kristen M. Frost, “*Juries, Jury Consultants, and White Collar Defendants*,” Lightfoot White Collar Institute, Washington, D.C., 26 April 2023
- Thomas C. Ryan and Adam J. Tejada, “*Financial Accounting*,” K&L Gates Mini-MBA Professional Development Program, Washington, D.C., 28 February 2023
- Thomas C. Ryan moderated “Insights from In-House: A Panel Discussion with Key Energy Players,” 13th Appalachian Law Conference, September 2022
- Thomas C. Ryan, et al., wrote and moderated panel session CLE on “*Houston We Have A Problem: Agents With Badges Are At The Front Door - The Basics for Companies in Responding to a Government Investigation.*,” September 2020

- Thomas C. Ryan, Mark A. Rush, et al., “*Traversing Borders - Coordinating National and International Investigations Initiated Internally and Externally by U.S./International Law Enforcement*,” Under the Wire, 13 February 2020
- Thomas C. Ryan, et al., *Considerations for What Your Lease Doesn't Say: An Update on Implied Covenants in the Appalachian Basin*, Energy & Mineral Law Foundation 40th Annual Institute, Washington, D.C., 9-11 June 2019
- Thomas C. Ryan et al., *What You Don't Know Can't Hurt You, Right? Resolving the Inherent Tension Between the Yates Memo and the Collective Knowledge Doctrine in Environmental Criminal Enforcement Actions*, Energy & Mineral Law Foundation 39th Annual Institute, Nashville, TN, 17-19 June 2018
- Thomas C. Ryan and Katherine Gafner, *Minimizing the Intrusion of an Enforcement Action*, In-House Counsel Presentation, 6 October 2017
- Thomas C. Ryan et al., *Phases and Considerations of a Government Investigation*, section presentation, “The Criminalization of Environmental Regulation: How to Respond and Is there More to Come?,” K&L Gates CLE Program, Houston, TX, 28 February 2017
- Thomas C. Ryan et al., *Corporate Responses to Investigative Requests by the Federal Government*, Western Pennsylvania Chapter of the Association of Corporate Counsel, 1 November 2016
- Thomas C. Ryan, *The Life Cycle of a Complex Federal Financial Crime: FinCEN Coming Full Circle?*, West Virginia Bankers' Association Annual BSA/AML School, 20 October 2016
- Thomas C. Ryan et al., *Law Firm Beware: Environmental Due Diligence in Corporate Transactions*, 26 September 2016, K&L Gates Firmwide training seminar
- Thomas C. Ryan, *Federal Rule Changes Affecting e-Discovery Are Here - What are the Implications?*; section presentation, “The Interplay of the Ethics Rules,” K&L Gates CLE Program, Pittsburgh, PA, 3 December 2015
- Thomas C. Ryan and Nicholas J. Ranjan, *Ethical Considerations Arising In Depositions*, K&L Gates Associate Training Program, Pittsburgh, PA, 3 September 2015
- Thomas C. Ryan, *Money Laundering Concerns in M&A Transactions*, Pennsylvania Bar Institute Ethics CLE Program: “Mergers and Acquisitions: Developments and Practice Tips,” Pittsburgh, PA, 18 June 2015
- Thomas C. Ryan and Mark A. Rush, *A Guide to the Development of a Cyber Data Breach Action Plan*, K&L Gates CLE Program: Cybersecurity: Minimizing Risk and Managing Consequences, Pittsburgh, PA, 9 December 2014
- Thomas C. Ryan and Allison L. Burdette, *Tracking the Trends in BSA Prosecutions and AML Regulatory Compliance*, CNB Bank, Inc. Bank Secrecy Act employee training program, Berkeley Springs, WV, 28 October 2014
- Thomas C. Ryan, *Bankruptcy Fraud and Criminal Prosecution*, West Virginia State Bar, CLE Program, 26 May 2011

## EDUCATION

- J.D., West Virginia University College of Law, 2004 (*Order of the Coif, Law Review, federal judicial extern to the late Charles H. Haden II, Chief Judge, Southern District of West Virginia*)
- M.B.A., West Virginia University, 2004 (*Capstone Challenge Champion*)
- B.A., West Virginia University, 1999 (*magna cum laude, Mr. Mountaineer Award Recipient — Most Outstanding Senior, Student Representative to University System Board of Trustees*)

## ADMISSIONS

- Bar of Pennsylvania
- Bar of West Virginia
- United States Court of Appeals for the Fourth Circuit
- United States District Court for the Northern District of West Virginia
- United States District Court for the Southern District of West Virginia
- United States District Court for the Western District of Pennsylvania

## THOUGHT LEADERSHIP POWERED BY HUB

- 31 October 2023, Addressing Whistleblower Claims Under Sarbanes-Oxley and Beyond: US Supreme Court Hears Argument on Burden of Proof Requirements
- 20 September 2021, Certified Question: Will West Virginia Take Another Bite At the Tawney Apple?
- 8 July 2020, Qui Tam Quarterly - Strategies for Avoiding the "Battle of the Experts" in False Claims Act Cases Based on Medical Necessity
- 20 May 2019, Not Your Average Lessor: The False Claims Act and Treble Damages in Royalty Disputes With the Federal Government
- 18 September 2017, Fourth Circuit Concludes that West Virginia State Law Preempts Local Ordinance Banning Oil and Natural Gas Wastewater Storage
- 14 December 2016, Supreme Court Finds Bank Fraud Need Not Target Banks; Resolves Circuit Split in Prosecutors' Favor
- 1 November 2016, Corporate Responses to Investigative Requests by the Federal Government

## OTHER PUBLICATIONS

- “BNA Insights: Imbalance of Power: Federal Prosecutors’ Nearly Unilateral Discretion to Resolve Allegations of Corporate Misconduct After D.C. Circuit Panel Overrules District Court’s Rejection of Deferred Prosecution Agreement in *U.S. v. Fokker*,” *Securities Regulation & Law Report*, 2016
- “U.S. District Court Judge Rejects Deferred Prosecution Agreement with Non-U.S. Company: Lessons for Companies Considering Similar Agreements,” *Bloomberg BNA*, World Securities Law Report, Volume 21, Number 5, May 2015
- “West Virginia is Not the Best Comparison for Proposed Pennsylvania Tax,” *The PIOGA Press*, May 2015

## NEWS & EVENTS

- 1 June 2023, K&L Gates Receives Firm, Individual Rankings in 2023 *Chambers USA* Guide
- 8 September 2022 , 13th Appalachia Energy Law Conference, Hosted by Institute for Energy Law
- 18 August 2022, More Than 350 K&L Gates Lawyers Named Among 2023 Best Lawyers in America, Ones to Watch
- 1 June 2022, K&L Gates Receives Firm, Individual Rankings in 2022 *Chambers USA* Guide
- 21 May 2021, K&L Gates Policy and Regulatory Practice, Lawyers Ranked Among Leaders in 2021 *Chambers USA* Guide
- 21 May 2021, K&L Gates’ Energy, Infrastructure, and Resources Practice, Lawyers Named Among Leaders in 2021 *Chambers USA* Guide
- 23 April 2020, K&L Gates, Lawyers Recognized in 2020 *Chambers USA* Guide

## AREAS OF FOCUS

- White Collar Defense and Investigations
- Commercial Disputes
- Construction and Infrastructure
- Federal, State, and Local False Claims Act
- Health Care Fraud and Abuse (U.S.)
- Internal Investigations
- Oil and Gas

## INDUSTRIES

- Energy
- Energy Disputes

## REPRESENTATIVE EXPERIENCE

### Government Enforcement Experience

- Represent a PT clinic in parallel criminal and civil federal health care fraud investigation involving False Claims Act allegations related to overbilling issues based on misapplication of CPT codes and allegations of misuse of unlicensed technicians.
- Represented the Supreme Court of Appeals of West Virginia in cooperating with multiple federal grand jury investigations and overlapping impeachment proceedings involving alleged misconduct by certain sitting members of the Court.
- Obtained dual federal and state cooperation agreements securing declination of prosecution of a global nuclear engineering company in a multibillion-dollar securities and fraud parallel criminal prosecution.
- Represented an international construction company in responding to information requests related to high-profile litigation involving a prominent American politician.
- Obtained declination for a midstream gas company following yearlong investigation by the EPA and DOJ involving allegations of criminal Clean Air Act violations.
- Defended a specialty metals manufacturer in an investigation by the criminal enforcement division of the US DOT and DOJ Main Justice involving an allegation of the illegal, cross-country transportation of a hazardous material.
- Represented a Fortune 500 company cooperating with multiple simultaneous federal grand jury investigations focused on violations of the Bank Secrecy Act and other international fraud and anti-money-laundering related allegations.
- Represented an energy executive of one of the nation's largest coal companies related to a parallel federal and state government investigation arising out of an alleged underground fire involving a longwall operation.
- Defended a couple alleged to have been involved in an insider trading scheme involving a sitting member of Congress.
- Represented a multinational energy company in an SEC investigation focused on potential securities fraud violations related to revenue recognition manipulation by the parent company.
- Represented one of the nation's largest natural gas producers in a grand jury investigation arising out of a natural explosion that leveled a residence and resulted in personal injury to the residents.
- Represented members of the oil and gas industry responding to inquiries initiated by the Pennsylvania Attorney General's Antitrust Section and Bureau of Consumer Protection.

- Represented a Midwest natural gas producer and processor in response to an investigation undertaken by the US Department of Interior Office of Inspector General related to the alleged underpayment of helium royalties.
- Represented a private provider of drug and alcohol rehabilitation services in a Pennsylvania statewide grand jury investigation involving unique issues of confidentiality under both state law and 42 C.F.R. Part 2.
- Defended a high-net-worth individual charged in multimillion-dollar mortgage fraud scheme.

### **Internal Investigation-Related Experience**

- Conducted a yearlong, cross-border internal investigation involving allegations of accounting fraud that required the collection of evidence from the United States and Japan for a client in the energy sector as a result of a US\$6 billion cost overrun on a first-of-a-kind construction project.
- Represented an international construction management company in navigating a high-profile Maltese public corruption investigation.
- Represented a multinational company in assisting the DOJ and IRS investigate and prosecute a former employee who embezzled nearly US\$15 million.
- Conducted an internal investigation for a wastewater utility arising out of alleged violations of a first-of-a-kind industrial pretreat program, which required analysis of unique environmental regulatory compliance issues.
- Conducted a cross-border internal investigation involving evidence in the United States and France for a client in the energy sector arising out of a whistleblower complaint of management's alleged failure to timely recognize costs in its estimate to complete a construction project for a state-owned utility.
- Advised one of the world's largest tire recyclers on anti-money-laundering issues related to cross-border transactions between US and Mexico.
- Investigated allegations of systemic sexual harassment by a mid-level manager of an energy client.
- Conducted a cross-border internal investigation involving allegations of workplace and financial misconduct by the manager of a US-based energy client's Korean subsidiary.
- Conducted an internal compliance investigation for a client in the energy sector arising out of an ethics hotline complaint alleging the Chief Operations Officer was authorizing improper promotions and salary increases based on a sexual relationship.
- Conducted an investigation into allegations of employee sexual misconduct on behalf of a nonprofit client who services the adult mentally handicapped community.
- Advised a nonprofit that provides mental health services to youth in Western Pennsylvania in responding to inquiries regarding alleged fraudulent billing practices initiated by the Pennsylvania Attorney General's Medicaid Fraud Control Unit.
- Obtained dismissal of multiple royalty class actions for several Marcellus Shale gas play producers by strategically invoking arbitration provision and defeating class status.

## Energy and Construction Practice Experience

- Defended a prolific Marcellus Shale and Utica Shale producer in a bet-the-company class action related to allegations of underpayment of royalties.
- Represented a midstream company and an interstate pipeline in a contested Public Service Commission proceeding regarding the acquisition of 1,000 miles of intrastate gathering lines, which included oral argument before the Supreme Court of Appeals of West Virginia.
- Defended multi-plaintiff litigation challenging a producer's approach to royalty calculation under West Virginia's seminal cases of *Wellman v. Energy Res., Inc.*, 557 S.E.2d 254, 256 (W. Va. 2001) and *Estate of Tawney v. Columbia Natural Resources, L.L.C., et. al.*, 633 S.E.2d 22 (W. Va. 2006).
- Represented a natural gas producer in resolving a series of commercial disputes arising out of a digital asset mining operation conducted on-site at the wellpad, including regulatory compliance issues.
- Defended a producer in a lessor litigation alleging a breach of a duty to further explore.
- Defended a producer in an alleged "washout" case brought by an overriding royalty interest holder.
- Represented a midstream company in pursuing a US\$20 million claim for defective design and construction of one of the largest retaining walls in the eastern United States.
- Represented a pipeline company in dismissing mechanic's lien filed by terminated contractor on US\$10 million pipeline project.
- Defended a midstream company in a right-of-way dispute.
- Represented a non-operator in the acquisition of a field of hundreds of shallow wells in southwestern Pennsylvania from the natural gas producer.
- Defended a gas fractionation facility in a series of nuisance claims.

## Health Care Fraud Practice Experience

- Defended a community-based hospital system in a federal grand jury investigation focused on alleged violations of 18 U.S.C. § 1347 involving the performance of medically unnecessary procedures in the cardiology program.
- Defended a community-based hospital system in the defense of a qui tam action that included allegations of Anti-Kickback Statute and Stark Law violations related to physician-practice acquisitions and False Claims Act violations arising out of the facility's "Incident to" billing procedures.
- Conducted an internal investigation on behalf of a podiatry practice following a UPIC audit request involving "impossible day" billing allegations.
- Represented a podiatry practice in responding a government inquiry related to billing and claims procedures for skin grafting and related procedures.

## Other Representative Experience

- Appointed as special counsel to the Pennsylvania State Senate's bipartisan Special Committee on Senate Address to consider the removal of then-Attorney General Kathleen Kane.
- Appointed as bipartisan committee counsel for the Pennsylvania House Select Committee on Restoring Law and Order charged to investigate conduct of a sitting elected official.
- Represented a candidate for the Supreme Court of Appeals of West Virginia in the appeal of two rulings by the West Virginia State Election Commission to provide public campaign financing to candidates for the Supreme Court in the May 2016 election.
- Prosecuted a financial institution through the use of a deferred prosecution agreement for failing to file Suspicious Activity Reports, Currency Transaction Reports, and other willful violations of the Bank Secrecy Act, and coordinated settlement with DOJ Asset Forfeiture and Money Laundering Section, Federal Deposit Insurance Corporation, and the Financial Crimes Enforcement Network. *United States v. Bank of Mingo*, No. 2:15-00129.
- Prosecuted one of the only "internal cyberattack" cases involving a former information technology network engineer for an exploration and production company, who was convicted under 18 U.S.C. § 1030, the federal cybercrime statute, for crashing the company's data storage area network server and backup systems after he learned of his imminent termination. *United States v. Ricky Joe Mitchell*, No. 2:13-00201.
- Prosecuted a criminal trademark infringement case involving an equipment repair shop owner, who was convicted of an intellectual property crime under 18 U.S.C. § 2320 arising out of the misuse of counterfeit labels affixed to refurbished electrical breakers, which had originally been manufactured specifically to heightened standards for use in the coal mining industry. *United States v. Freddie Dean Ball, Jr.*, No. 2:13-00212.