



Thomas D. Bever

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Areas of Practice

White Collar Law | Litigation / Trial Practice | Health Care | Governmental Affairs

Thomas D. Bever is a Partner in the Litigation Practice of Smith, Gambrell & Russell, LLP. Mr. Bever is a former federal prosecutor who focuses his practice on White Collar Criminal Defense and commercial litigation. He is listed in *U.S. News The Best Lawyers in America*® for Bet-the-Company Litigation, Criminal Defense for White Collar Crime, and Commercial Litigation. Mr. Bever was named the *Best Lawyers*® 2017 Atlanta Criminal Defense: White-Collar “Lawyer of the Year” in Georgia. He has also been ranked by Georgia Super Lawyers (Criminal Defense: White Collar) since 2005 and is listed in *Chambers USA* for White Collar Crime & Government Investigations. Mr. Bever has had a top AV Preeminent rating by Martindale Hubbell for more than 20 consecutive years. He is a member of the Litigation Counsel of America, a trial honorary society.

Mr. Bever is focused primarily on White Collar criminal defense, representing individual and corporate clients in all stages of criminal investigations in federal and state courts, from the initiation of the investigation through trial. He also represents clients in civil litigation and trials, as well as administrative hearings and regulatory matters. Mr. Bever has served as lead counsel on behalf of companies on a variety of internal investigations. His cases have primarily been in healthcare, government contracting, securities, tax, environmental, and commercial disputes.

Mr. Bever earned his JDA and MBA from the University of Virginia and practiced in Atlanta with Alston & Bird. He then served in the Criminal Division of the United States Attorney’s Office for the Northern District of Georgia, prosecuting fraud, public corruption, and general crimes. The U.S. Department of Justice awarded him a Special Commendation for his prosecution of a major FHA mortgage loan fraud case. He later served as Associate Counsel in the Office of Independent Counsel, conducting the “Iran/Contra” investigation.

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Mr. Bever speaks and appears regularly at a variety of professional seminars. These have included the National Seminar on the Federal Sentencing Guidelines, the American Bar Association's Healthcare Fraud Institute, and annual seminars in Georgia on White Collar Crime, Healthcare Fraud, Federal Criminal Practice, and Internal Corporate Investigations.

Experience

- In Federal Court in the E.D. of Virginia, achieved one-month intermittent confinement and 11 months home detention for businessman prosecuted for fraud, in the face of Assistant U.S. Attorney recommending 17 to 21 months incarceration. Codefendant received three years of incarceration.
- In Federal Court in 2021, achieved a six month home detention sentence and restitution for businessman client in prosecution for unlawful possession of opioid prescription drugs for personal use, in the face of the U.S. Attorney's Office recommending 30 months of incarceration.
- Jury trial defense verdict client developer against the bank on nine promissory notes totaling \$25 million, Cherokee County Superior Court.
- Hung jury trial, defending client on criminal charges for failure to file multiple tax returns, federal court in Atlanta.
- Court dismissed extortion indictment against client businessman, Superior Court, Greene County.
- Sexual assault indictment against physician client dismissed by the prosecutor, State Court, Clayton County.
- Defended psychologist against Georgia Medicaid Fraud Control Unit on Medicaid overbilling, negotiated first offender misdemeanor plea, State Court DeKalb County.
- Defended owner of MRI facilities in False Claims Acts criminal and civil investigations for kickbacks to physicians. Achieved misdemeanor resolution, no incarceration, no monies paid in civil false claims act case. Federal court. Atlanta.
- Defended salesman against federal insurance fraud investigation in two districts, achieved nine-level downward departure at sentencing, federal court. Chattanooga.
- Defended federal intelligence agency former employee against felony investigation for filing false documents for disability payments. Obtained pretrial diversion. Atlanta.
- Defended business owner in \$6 million customs tax evasion case, facing 6-year sentence, negotiated one two year count, obtained 14-month sentence in court. Atlanta.
- Defended food procurement officer indicted in federal multi-defendant \$3 million mail fraud, facing 12-year sentence, negotiated plea and obtained 16-month sentence. Macon.
- Owner of facilities development company indicted for improper political contribution and alleged federal mail fraud in a multi-defendant case, facing a multi-year sentence, negotiated plea, obtained 16-month sentence in court. Oxford, MS.

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- Defended owner of staffing company in a multi-defendant federal indictment on immigration violations, negotiated plea down from 5 years to binding plea of 15 months. Atlanta.
- Defended president of a national jewelry company in a federal investigation in New York alleging fraud and securities violations. No action was taken against the client; other targets were prosecuted and incarcerated.
- Represented senior executive of national company in an internal investigation and before Securities & Exchange Commission allegations on insider trading. Exonerated in an internal investigation, SEC closed the case with no action taken, Atlanta.
- Defended hospital system against Medicare False Claims Act allegations in Middle District of Georgia, the government seeking penalties for alleged use of improper medication and procedures; resolved by simple repayment of the alleged overpayment.
- Represented lead administrator of school system SPLOST funds against Cobb County District Attorney investigation. Following grand jury proceedings, no action was taken.
- Defended engineering company in DeKalb District Attorney investigation alleging improper spending payments to a top-level county employee. Following grand jury proceedings, no action was taken.
- Defended owner of diagnostic testing laboratory in federal grand jury investigation of overbilling Medicare. The President of the company tried in Augusta, received a five-year sentence; no action was taken against the client or laboratory.
- Defended Health Care consultant against federal allegations of participating in conspiracy to commit fraud with hospital in Savannah; no action taken against client.
- Defended farmer in federally insured bank loan case against allegations of making false statements and fraud in obtaining loan. Following testimony, the investigation closed.
- Defended American subsidiary of Kuwaiti supply chain company against federal grand jury indictment alleging contract fraud invoicing for food services to U.S. troops in Iraq and Afghanistan. In a court hearing in Atlanta, charges against the client were dismissed.
- Defended lawyer in federal court in Atlanta against potential sanctions. Following hearing and negotiations, no sanctions were imposed against the client.
- Defended businessman against contempt of court proceedings in a civil case in Superior Court in Augusta; after in court hearing, no contempt found.
- Defended Assistant District Attorney against contempt of court proceedings in Superior Court of Carroll County, and against court allegations to State Bar of misconduct. Both matters were dropped by Court.
- Defended general manager of utility company in federal grand jury in Atlanta investigating Clean Water Act violations. No action was taken against the executive by the grand jury or U.S. Environmental Protection Agency.
- Represented minister of large metropolitan church against allegations of insider trading by Securities and Exchange Commission in Atlanta. Following the testimony of client, case closed.

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- Defended Board Certified pain management physician indicted by Clayton County District Attorney for sexual assault; following defense investigation, indictment dismissed by the prosecutor.
- Represented commercial pilot against State Attorney General investigation of Georgia state income tax evasion from claiming residency in Florida. Negotiated plea with no jail time, right to fly maintained.
- Represented general manager of the private club against employee allegations of felony attempted rape. Resolved in Fulton County by misdemeanor assault nolo contendere plea under Alford v. North Carolina (denial of guilt), \$200 fine, case closed.
- Defended president of Atlanta company against ERISA administrative investigation for failure to fund retirement contributions of employees. Matter resolved civilly, without penalties.
- Defended husband and wife in physical therapy case by District Attorney and the Georgia Medicaid Fraud Control Unit of alleged overbilling. Matter resolved administratively by repayment of overbilled amounts.
- Represented mortgage loan broker in federal case involving kickback to achieve 100% financing. As a result of payment of loss to victim bank, the sentence was six months home confinement.
- Represented real estate businessman against Department of Justice Antitrust Division bid-rigging case. Client faced multi-year sentence, achieved sentence of ten months, federal camp.
- Represented chief financial officer investigated for loan fraud on the federally insured bank in N.D. Ga. By negotiating the amount of loss as the client's salary, not loss to bank, the sentence substantially reduced the federal camp.
- Represented client in Secret Service investigation of identity theft. Initial potential incarceration exceeded ten years in medium-security prison. Following negotiations with prosecutors in Atlanta, the client sentence was reduced to 6 years in the federal camp.
- Defended airline pilot against the release of a closed criminal investigation under Georgia's Open Records Act, establishing rule in Georgia Supreme Court case that, contrary to the general rule, client documents are not subject to release if they contain confidential tax information.
- Co-counsel in successful representation of majority shareholder of commercial real estate company in dispute with minority shareholders regarding partnership agreement; after hearings in Superior Court, case mediated to client's satisfaction, terminating litigation.
- Represented minority shareholders in fraud case against majority shareholder in Superior Court. Mediated case to financial payment satisfying each client, terminating the litigation.
- Successfully represented victim company from Texas, working with U.S. Attorney's Office N.D. Ga. to prosecute manager salesman in a sophisticated embezzlement scheme, resulting in plea and incarceration.

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- Successfully represented national carpet company in internal investigation arising from kickbacks made by the regional salesman; employee prosecuted in N.D. Ga. and incarcerated in federal prison, and 100% of kickbacks recovered through a civil lawsuit.

Admissions

Georgia

U.S. District Court Northern District of Georgia

U.S. Court of Appeals 11th Circuit

Georgia Court of Appeals

Supreme Court of Georgia

U.S. District Court Middle District of Georgia

U.S. District Court Southern District of Georgia

Memberships

President, Board of Directors, Federal Defender Program, Northern District of Georgia (2020-2021)

Board Member, Foundation for Wesley Woods (2020-2021)

Advisory Board Member, Dunwoody Summit Counseling

Litigation Counsel of America (2014-Present)

Fellow, Litigation Counsel of America (Trial Honorary Society) (2014-2015)

Joseph Henry Lumpkin American Inn of Court (1987 – 1989)

American Bar Association, Member

Federal Bar Association, Member

State Bar of Georgia, Member

Atlanta Bar Association, Member