



# Simon A. Gaugush

OF COUNSEL

TAMPA

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## Overview

With more than a decade of experience as a federal prosecutor, Simon Gaugush focuses his practice on white collar criminal defense, opioid-related litigation, corporate internal investigations, cyber offenses, False Claims Act (qui tam) cases, and complex civil litigation.

From January 2008 through September 2019, Simon served as a federal prosecutor for the U.S. Attorney's Office in the Middle District of Florida. Simon concluded his tenure at the U.S. attorney's office as the deputy chief of the Criminal Division, where he oversaw the prosecution activities of more than 85 federal prosecutors throughout the district. Prior to that, Simon served as the chief of the Economic Crimes Section, Major Crimes Section, and the General Crimes Section. During the first half of Simon's career at the U.S. attorney's office, he served as a federal prosecutor in the Organized Crime Section, Economic Crimes Section, and Asset Forfeiture Division in Tampa.

During his tenure at the U.S. attorney's office, Simon personally prosecuted and oversaw investigations and prosecutions of crimes related to all types of white collar offenses (including health care, tax, mortgage, bankruptcy, wire, mail, securities, access device, and program fraud), kickback offenses, complex opioid cases, money laundering, cybercrime, export violations, obstruction of justice, environmental crimes, international and domestic drug trafficking, large-scale immigration fraud, child exploitation, public corruption, and civil rights matters.

As a federal prosecutor, Simon was involved in 18 trials and litigated a dozen more up to trial. Simon has extensive experience conducting grand jury investigations and handling countless evidentiary hearings. In his supervisory role, Simon monitored investigations of public officials, physicians, pharmacists, attorneys, and business owners. Additionally, he trained federal prosecutors and law enforcement officers in a variety of practice areas. As deputy chief of the Criminal Division, Simon held a top-secret security clearance with access to sensitive compartmented information.

Prior to joining the U.S. attorney's office, Simon was in private practice, handling a variety of criminal and civil matters in federal, state, and administrative proceedings involving the False Claims Act, toxic torts, kickback violations, health care fraud, deceptive trade practices, and commercial disputes.

## Opioid and Pharmaceutical Matters

Simon is known for his experience investigating and prosecuting medical personnel for overprescribing opioids and other controlled substances. Simon authored a manual for the U.S. Department of Justice, *Investigating and Prosecuting Physicians and Pharmacists for Dispensing and Distributing Controlled Substances Outside the Course of Professional Practice*, which is commonly referred to in the DOJ as the bible for opioid prosecutions and introduced the concept of "red flags" for identifying pill mills. Simon conducted formal training sessions and regularly advised federal prosecutors and agents around the country in how to investigate and prosecute opioid offenses. During his time as the chief of the Economic Crimes Section, Simon supervised the federal prosecutors in the Opioid Fraud and Abuse Detection Unit at the U.S. attorney's office.

## Cybercrime / Data Security

Simon spearheaded the creation of a unit to handle cybercrime matters at the U.S. attorney's office. From 2016 to 2019, Simon supervised and was intimately involved in the investigation and prosecution of xDedic, an online marketplace that sold access to compromised computer credentials and personal information stolen from individuals and businesses worldwide. Simon and a team of federal prosecutors worked with a variety of federal agencies and law enforcement partners around the world to seize and dismantle the marketplace. Simon has handled matters involving business email compromises and has lectured in public forums on fraud prevention and protecting personal data.

## Health Care / Kickbacks

As a federal prosecutor, Simon specialized in complex cases. In particular, he concentrated on business owners who committed health care fraud, kickback offenses, and billed Medicare notwithstanding their exclusion from federal programs. Simon handled a long-term investigation of a medical device manufacturer for off-label promotion, adulteration, and misbranding of a medical device, resolving the case with a monetary penalty and deferred prosecution agreement. While in private practice, Simon represented a physician accused of engaging in a kickback arrangement with an MRI company. He also represented a hospital administrator accused of accepting money from a business developer and failing to declare the funds upon returning to the United States.

## False Claims Act (Qui Tam)

In private practice, Simon defended False Claims Act (qui tam) suits. In particular, Simon defended the former manager of a mail-order pharmacy for a *Fortune* 500 company regarding their prescription-filling practices. In another case, Simon defended the owners of a company that conducted background checks for the government. Through these experiences, Simon

became adept at defending clients against allegations of filing false claims with the government.

### Toxic Tort / Class Action

While in private practice, Simon represented the former owner of an industrial plant in a mass tort action and separate class action involving more than 1,000 plaintiffs. This case required coordination between the current and former owners of the plant to contest the plaintiffs' claims. The plant owners defeated the plaintiffs' attempts to obtain class certification.

### Immigration

From 2000 to 2003, Simon served as an assistant chief counsel for the U.S. Department of Homeland Security's Office of the Chief Counsel, and its predecessor agency. In this role, Simon litigated hundreds of cases in U.S. immigration court. These cases involved, among other things, claims for asylum, withholding of removal, cancellation of removal, adjustment of status, and withholding under Article 3 of the United Nations Convention Against Torture. Simon served as a special interest attorney, handling cases involving national security risks and suspected persecutors. In 2002, Simon served as a refugee processor in Kenya, and in 2001 he earned the award for new attorney of the year.

In private practice, Simon has counseled clients on the immigration consequences of criminal convictions and waivers of inadmissibility for particular offenses. When Simon served as a federal prosecutor, he trained immigration officers and advised on worksite enforcement.

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### All Insights

06.12.2020 Flynn's False Statement Charge Reveals Failed Investigation  
*Law360*

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06.10.2020 CARES Act Provider Relief Funding: Think Before You Deposit

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03.31.2020 Federal and State Officials Launch Joint Efforts to Investigate and Prosecute Fraud Related to the Coronavirus

### All News

06.12.2020 Simon Gaugush Authors Law360 Article on FBI's Investigation into Michael Flynn

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10.23.2019 Carlton Fields Adds Former Deputy Chief of the Criminal Division at the U.S. Attorney's Office for the Middle District of Florida

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## Speaking Engagements

- "Plea Bargaining," Twenty-Eight Annual National Seminar on Federal Sentencing, St. Pete Beach, FL (August 30, 2019).
- "Protecting Places of Worship," Presentation to faith-based organizations, law enforcement, government officials and community leaders to discuss strategies for preventing and responding to violent incidents targeting places of worship, College of Central Florida, Ocala, FL (July 23, 2019).
- "Popular Scams, Identity Theft, and Protecting Yourself from Fraud," Fraud Prevention Day, Senior Community of Lake and Sumter Counties (125 attendees), Lady Lake, FL (May 16, 2019).
- "Civil Rights Criminal Prosecutions," Presentation to International Delegation from Ukraine, Papua New Guinea, Ghana, and Malawi, Orlando, FL (March 25, 2019).
- "Popular Scams, Identity Theft, and Protecting Yourself From Fraud," Fraud Prevention Day, Sun City Center Men's Club (350 attendees), Sun City Center, FL (March 4, 2019).
- "The Opioid Epidemic, Fentanyl, Analogues, and the Law," Central America Precursor Chemical and Fentanyl Seminar, Panama City, Panama (November 15, 2018).
- "Immigration Fraud and Working with the United States Attorney's Office," U.S. Citizenship and Immigration Services Fraud Detection and National Security Officer Training, Federal Law Enforcement Training Center, Charleston, SC (November 2, 2018; March 30, 2018; July 20–21, 2017; December 18, 2015)
- "Jamaican Lottery Scams, Impersonation Scams, and Romance Schemes," Fraud Prevention Day, Valencia Lakes Community (425 attendees), Wimauma, FL (October 24, 2018).
- "Testifying in Federal Court," Courtroom Testimony Training Seminar for Federal and State Law Enforcement Officers, Naples, FL (October 16, 2018).
- "Pill Mill Investigations and Prosecutions in the Middle District of Florida (A Review of the Last 10 Years)," Meeting with former U.S. Attorney General Jefferson B. Sessions III, Acting Attorney General Matthew G. Whitaker (then chief of staff), Florida Attorney General Pam Bondi, and heads of federal law enforcement agencies (February 7, 2018).
- "Conducting Accelerated Pill Mill Investigations," U.S. Department of Justice Opioid Fraud and Abuse Detection Training Webinar (August 28, 2017).
- "Obstruction of Justice," White Collar Training Seminar for Federal Prosecutors and Federal Law Enforcement Officers, Tampa, FL (August 23, 2017).
- "Investigating, Prosecuting, and Sentencing in Immigration Fraud Cases: The case of United States v. Rosa and Domenico Cingari," U.S. Department of Justice Immigration Fraud Training Webinar (July 2017).
- "Drafting Search Warrant and Criminal Complaint Affidavits," Homeland Security Investigations Special Agent Training, Tampa, FL (September

2016).

- "Criminal, Civil, and Administrative Forfeiture," Bureau of Alcohol, Tobacco, Firearms, and Explosives Annual Training Seminar, Vero Beach, FL (February 23, 2010).

## Credentials

### EDUCATION

- Vanderbilt University School of Law (J.D., 2000)
- American University (B.A., 1997)

### BAR ADMISSIONS

- Florida

### COURT ADMISSIONS

- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, Middle District of Florida
- U.S. District Court, Northern District of Florida
- U.S. District Court, Southern District of Florida

## Background

- U.S. Attorney's Office for the Middle District of Florida (2008-2019)
  - Deputy Chief, Criminal Division (2018-2019)
  - Chief, Economic Crimes Section (2016-2018)
  - Chief, Major Crimes Section (2015-2016)
  - Chief, General Crimes Section (2013-2015)
  - Assistant U.S. Attorney, Criminal and Asset Forfeiture, Tampa and Fort Myers Divisions (2008-2013)
- Senior Associate, Zuckerman Spaeder, Tampa, FL (2003-2008)
- Assistant Chief Counsel, Office of the Chief Counsel, Immigration and Customs Enforcement, U.S. Department of Homeland Security, Arlington, VA and Miami (2000-2003)

## Areas of Focus

### PRACTICES

- Cannabis Law
- Class Actions
- Cybersecurity and Privacy
- Environmental Regulation & Litigation
- Financial Elder Abuse
- Immigration Planning and Compliance
- Litigation and Trials

### INDUSTRIES

- Health Care

- Pharmaceuticals and Medical Devices
- Qui Tam/Whistleblower Defense
- Securities Inquiries, Examinations & Enforcement
- Technology
- White Collar Crime & Government Investigations