

# Snell & Wilmer

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## James P. Melendres

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## Main Bio

James Melendres co-chairs the Investigations, Government Enforcement and White Collar Protection practice and Cybersecurity, Data Protection and Privacy practice. He regularly conducts internal investigations and represents companies in a wide variety of matters relating to federal and state criminal, civil and regulatory enforcement. James also advises companies regarding the full life cycle of enterprise risks associated with cybersecurity, including before, during and after a data breach or other cyber-attack.

James further assists clients in developing and implementing crisis management and public relations strategies. He has appeared on CBS, CNBC and MSNBC and been quoted in *The Wall Street Journal* and *Bloomberg*, among other publications.

Prior to joining Snell & Wilmer, James served as a federal prosecutor and led high-profile and complex matters, including the prosecutions of former Central Intelligence Agency Director David Petraeus and the leader of the Tijuana Cartel. He also served in the leadership offices at the Department of Justice in Washington, D.C., and in his role as counsel to the Assistant Attorney General for National Security, James helped manage the DOJ National Security Division and counseled senior DOJ officials on a wide variety of matters - from high-profile cyber investigations and related litigation to the strategic use of trade sanctions to counter cyber-related national security threats.

## Representative Experience

- Conducted internal investigation for university regarding Department of Justice “Varsity Blues” college admissions prosecution
- Conducted internal investigation and defended company in parallel investigations by Inter-American Development Bank and Department of Justice Foreign Corrupt Practices Act Unit
- Conducted internal investigation for professional sports organization regarding alleged violations of league rules
- Conducted internal investigation and defended company in parallel investigation by California Attorney General’s Office and multiple City Attorney’s Offices regarding False Claims Act allegations
- Conducted internal investigation for company regarding civil and criminal False Claims Act allegations
- Conducted internal investigation for private company regarding billing practices
- Defended company in investigation by Securities and Exchange Commission regarding fraud allegations

- Represented public company in prosecution by U.S. Attorney's Office for the Southern District of New York regarding indictment charging individuals with fraud and kickback scheme
- Represented public company in prosecution by U.S. Attorney's Office for the Middle District of Florida regarding indictment charging individual with obstruction of justice and material support for terrorism
- Represented non-profit organization in prosecution by Department of Justice Fraud Section regarding indictment charging individuals with fraud, money laundering, and false statements
- Represented venture capital firm in investigation by Securities and Exchange Commission regarding material misstatement allegations
- Representing company in investigation by U.S. Attorney's Office for Northern District of Florida regarding indictment charging individuals with health care fraud, wire fraud, and money laundering
- Representing company in investigation by U.S. Attorney's Office for Northern District of Illinois regarding money laundering allegations
- Represented company in investigation by U.S. Attorney's Office for Southern District of Illinois regarding Lacey Act allegations
- Represented company in investigation by Arizona Attorney General's Office regarding identity theft allegations
- Defending individual in prosecution by U.S. Attorney's Office for District of Arizona regarding wire fraud charges
- Defending individual in investigation by U.S. Attorney's Office for District of Arizona regarding health care fraud allegations
- Defended individual in investigation by U.S. Attorney's Office for District of Arizona regarding federal program bribery and honest service fraud allegations
- Defended individual in parallel investigations by U.S. Attorney's Office for District of Missouri and Securities and Exchange regarding fraud allegations
- Defended individual in prosecution by U.S. Attorney's Office for District of Arizona regarding mortgage fraud and bank fraud charges
- Conducted internal investigation and defending company in investigation by U.S. Attorney's Office for the District of Utah regarding criminal worksite enforcement allegations
- Defended company in prosecution by U.S. Attorney's Office for the District of Colorado for unlawful work activity on federal lands
- Defending charter school company board members in audit conducted by Fiscal Crisis & Management Assistance Team
- Defending individual in investigation by Securities and Exchange Commission regarding insider trading allegations
- Representing physician in investigation by U.S. Attorney's Office for Central District of California and Department of Justice Civil Fraud Section regarding False Claim Act and anti-kickback allegations
- Defended brokers in parallel investigations by the New York State Attorney General and the SEC concerning mutual fund late trading and market timing
- Advise companies regarding design and implementation of global anti-bribery compliance programs
- Counseled companies in multiple industries regarding best practices for implementing policies to respond to government subpoenas and requests for information

- Advise public and private companies in multiple industries respond to cyber-attacks, data breaches, Business Email Compromises, and ransomware attacks in the United States, European Union, and other foreign jurisdictions and provides related legal guidance regarding compliance with data breach notification requirements, regulatory engagement, and private litigation
- Representing mortgage company in data breach impacting borrowers in all 50 states
- Represented private investment company in data breach impacting customers in multiple states
- Represented multinational public company in cyber-attack investigation involving multiple jurisdiction globally
- Represented public company in cyber-attack investigation
- Represented life sciences company in Business Email Compromise cyber-attack investigation
- Represented public company in Business Email Compromise cyber-attack investigation
- Represented multinational hospitality company in Business Email Compromise cyber-attack resulting in fraudulent transfer of funds
- Represented mining company in Business Email Compromise cyber-attack resulting in fraudulent transfer of millions of dollars to banks in more than twenty jurisdictions around the world
- Represented life sciences company in data breach impacting customers in all 50 states
- Representing civic organization in data breach impacting customer in 26 states
- Represented public company in data breach investigation
- Represented company in data security investigation involving HIPAA notification
- Represented companies in multiple industries in responding to cyber incidents involving ransomware and cyber extortion attacks resulting in exposure of sensitive information
- Counseled companies in multiple industries on cybersecurity risk management and cyber incident response planning
- Advise companies regarding design and implementation of global data privacy compliance programs related to EU General Data Protection Regulation and other international privacy laws
- Counseled companies in multiple industries on international data transfer issues, including EU – U.S. Privacy Shield and Swiss-U.S. Privacy Shield compliance

## **Education**

- Stanford Law School (J.D., 2003)
- Dartmouth College (A.B., cum laude, with high honors, 2000)

## **Professional Memberships & Activities**

- Lex Mundi Global Cyberbreach Rapid Reaction Force
- American Bar Association, Criminal & Enforcement Litigation Subcommittee, Chair (2016-present)
- Stanford Law School Phoenix Regional Chapter, Co-Chair (2016-present)
- Arizona Supreme Court Task Force on Court Management of Digital Evidence, Member (2016 – 2018)
- Hispanic National Bar Association
- Los Abogados Hispanic Bar Association

## **Representative Presentations & Publications**

### **Selected Media Coverage**

- "[Elizabeth Holmes's Ex-Boyfriend Hopes to Escape the Verdict She Didn't](#)," Quoted, The New York Times (March 9, 2022)
- "[Theranos Founder Elizabeth Holmes Is Convicted on 4 Counts](#)," Quoted, WIRED (January 3, 2022)
- "[Closing Arguments Begin in the Trial of Elizabeth Holmes](#)," Quoted, New York Times (December 16, 2021)
- "[Ex-Theranos Manager Tells of Unrelenting Pressure From Holmes](#)," Quoted, Bloomberg Law (September 17, 2021)
- "[Holmes' Mental State Key To Fraud Defense, Legal Pros Say](#)," Quoted, Law360 (August 30, 2021)
- "[US v. Elizabeth Holmes: The Case Against Theranos' Ex-CEO](#)," Quoted, Law360 (August 27, 2021)
- "[Theranos Founder Elizabeth Holmes Is Ready for Her Day in Court](#)," Quoted, Bloomberg Businessweek (August 20, 2021)
- "[Biden Could Use Obama-Era Tools To Counter Sprawling Hack](#)," Quoted, Law360 (December 17, 2020)
- "[John Bolton's book publisher subpoenaed, DOJ investigating disclosures in 'The Room Where It Happened'](#)," Quoted, USA Today (September 15, 2020)
- "[Justice Department Begins Criminal Probe Over Bolton Book](#)," Quoted, The Wall Street Journal (September 15, 2020)
- "[Internal Investigation Finds Admission Scandal at USD Limited to One Coach](#)," The San Diego Union-Tribune (August 29, 2019)
- "[Companies Should Up Cybersecurity Efforts as Trump Council Frays](#)," Quoted, Bloomberg BNA (August 30, 2017)
- "[Trump Cybersecurity Council Resignations Could Mean Disruption for Cybersecurity Policy](#)," Quoted, Legaltech<sup>©</sup> News (August 29, 2017)
- "[What Attorneys Need to Know About Trump's Opioid Policies](#)," Quoted, Law360 (August 9, 2017)
- "[The Morning Risk Report: Odebrecht Corruption Case Breaks New Ground](#)," Quoted, The Wall Street Journal (April 19, 2017)
- "Cyber Spies," Quoted, Legaltech<sup>©</sup> News: A Special Report, Corporate Counsel Magazine (February 2017)
- "Odebrecht Case Shows Cooperation Breakthrough," Quoted, The Wall Street Journal (December 22, 2016)
- "[Table of Experts: Cybersecurity](#)," Panelist, Phoenix Business Journal (September 30, 2016)
- "[How does DOJ decide how much to fine a company?](#)" CNBC (September 16, 2016)
- "[Nationwide Ruling Lowers Hurdle For Data Breach Victims](#)," Quoted, Law360 (September 13, 2016)
- "[Spokeo Landscape Gets Clarity In 8th Circ. Charter Ruling](#)," Quoted, Law360 (September 9, 2016)
- "[As Cyber Fears Rise, Smaller Firms Struggle to Cope](#)," Quoted, The Record Reporter (August 12, 2016)
- "[Here's why James Comey didn't recommend prosecution for Hillary Clinton](#)," CBS (July 7, 2016)
- "[Reasons emerge as to why Hillary Clinton is not prosecuted in e-mail scandals](#)," New Europe (July 7, 2016)
- "[Criminal charges against Clinton could have set new legal standard](#)," Politico (July 6, 2016)
- "[How FBI chief's Clinton email ruling was 'very unusual'](#)," CBS, CBS This Morning (July 6, 2016)

- "[Similarities lacking in Clinton, Petraeus investigations](#)," The Associated Press (July 6, 2016)
- "[Intent is key in classified information cases](#)," The San Diego Union-Tribune (July 5, 2016)
- "[FBI: Clinton, Staff 'Extremely Careless'](#)," MSNBC, Meet the Press Daily (July 5, 2016)
- "[Top Privacy Cases of 2016: Midyear Report](#)," Quoted, Law 360 (July 1, 2016)

## Publications

- "[DOJ Incentivizes Voluntary Self-Disclosure of Corporate Criminal Misconduct in Policy Directive to U.S. Attorneys' Offices Nationwide](#)," Co-Author, Snell & Wilmer Legal Alert (March 6, 2023)
- "[DOJ Revisits its Corporate Criminal Enforcement Policy Offering Companies Additional Incentives to Self-Disclose, Cooperate, and Remediate](#)," Co-Author, Snell & Wilmer Legal Alert (January 24, 2023)
- "[The European Union Opens 'Tech Embassy' in Silicon Valley Ahead of New Technology Regulations](#)," Co-Author, Snell & Wilmer Legal Alert (August 31, 2022)
- "[Supreme Court Narrows Scope of the Computer Fraud and Abuse Act](#)," Co-Author, Snell & Wilmer Legal Alert (June 3, 2021)
- "[White House Issues Executive Order on Improving Nation's Cybersecurity](#)," Co-Author, Snell & Wilmer Legal Alert (May 21, 2021)
- "[Go With the Flow: Developments in Cross-Border Data Flows Following Schrems II and the Release of New Draft International Standard Contractual Clauses](#)," Co-Author, Snell & Wilmer Global Connection Newsletter (March 15, 2021)
- "[New Year, New Laws – Congress Passes Major Anti-Money Laundering Act](#)," Co-Author, Snell & Wilmer Legal Alert (January 15, 2021)
- "[Federal Financial Regulators Propose Rule Accelerating Cyber Threat Reporting Requirements](#)," Co-Author, Snell & Wilmer Legal Alert (January 13, 2021)
- "[In Liu v. SEC, Supreme Court Upholds – But Limits – SEC's Ability to Obtain Disgorgement, Leaving Many Questions for Lower Courts to Decide](#)," Co-Author, Snell & Wilmer Legal Alert (June 25, 2020)
- "[Paycheck Protection Program Enforcement Actions Begin: DOJ Charges Two Men for Defrauding Federal Government Under the CARES Act](#)," Co-Author, Snell & Wilmer Legal Alert (May 11, 2020)
- "[Hospital and Healthcare Company Ransomware Attacks Increasing During COVID-19 Pandemic](#)," Co-Author, Snell & Wilmer Legal Alert (April 8, 2020)
- "ABA Recent Developments in Business and Corporate Litigation, Criminal and Enforcement Litigation," (2017-2018)
- "[Breaking Down the DOJ's Enforcement and Corporate Leniency Policies](#)," Co-Author, Denver Business Journal (June 11, 2018)
- "Handling Cyber Threats: Ransomware," Co-Author, Orange County Business Journal (August 28, 2017)

## Speaking Engagements

- "Selected Cybersecurity Issues for Attorneys," Presenter, Arizona Society of Healthcare Attorneys (February 8, 2022)
- "Government Enforcement and COVID-19," Co-Presenter, Snell & Wilmer Virtual CLE Series (June 8, 2021)
- "Conducting Internal Investigations: Best Practices and Current Trends," Moderator, The Network of Trial Law Firms, San Diego, CA (November 8, 2019)

- “An Insider’s View of the Cyber Insurance Landscape,” Panelist, IT Security Leadership Exchange, Phoenix, AZ (October 29, 2019)
- “Effective BEC and Ransomware Mitigation,” Co-Presenter, Kroll Reputational Risk Webinar Series (October 2, 2019)
- “Cybersecurity and Benefits Plans,” Keynote Speaker, Western Pension & Benefits Council 2019 Spring Conference, Scottsdale, AZ (May 9, 2019)
- “Recent Developments in Criminal and Enforcement Litigation,” Panelist, ABA, Business and Corporate Litigation Committee 2019 Spring Meeting, Vancouver, Canada (March 29, 2019)
- “Data Breach Response: Preserving the Privilege,” Lockton Phoenix Inaugural Cyber Day, Phoenix, AZ (February 26, 2019)
- “Law of Leaks,” Panelist, 2018 Ninth Circuit Judicial Conference, Anaheim, CA (July 24, 2018)
- “Data Breach Response: Preserving the Privilege,” SCCE Scottsdale Regional Compliance & Ethics Conference, Scottsdale, AZ (April 13, 2018)
- “Cybersecurity and the Obligations of Companies: An Ethical Perspective,” ABA, Section of Litigation, Corporate Counsel Seminar, La Quinta, CA (February 16, 2018)
- “Cybersecurity and Data Protection Guidance for Law Firms: Protecting Your Clients' Crown Jewels in the Age of the Internet,” ABA Business Law Section Annual Meeting, Chicago, IL (September 14, 2017)
- “Cybersecurity Preparedness: Building a Legal Firewall to Prepare for the Inevitable,” Utah State Bar Convention, Sun Valley, ID (July 27, 2017)
- “Strategies for Communicating with DOJ,” SCCE Regional Compliance and Ethics Counsel Conference, Scottsdale, AZ (April 7, 2017)
- “Cybersecurity: What Life Sciences Companies Need to Know to Defend Themselves Against the Inevitable,” Co-Presenter, Medmarc Loss Control Webinar Series (June 29, 2016)
- “National Security-Related Cybersecurity Challenges and Solutions,” Atlantic Council – Cyber 9/12 Student Challenge, Washington, D.C. (March 11, 2016)
- “Information Sharing Under the EU-US Privacy Shield,” National Cyber-Forensics Training Alliance, San Diego, CA (March 4, 2016)
- “Cybersecurity, Data Protection and Privacy Committee Panel,” American Bar Association, Public Contract Law Section, Washington, D.C. (February 23, 2016)
- “The Current Cyber Threat Landscape,” Speaker, National Security Cyber Specialists Network 2015 Conference, Tysons Corner, VA (October 21, 2015)

## **Professional Recognition & Awards**

- The Best Lawyers in America<sup>®</sup>, Criminal Defense: White Collar (2019-2023)

## **Previous Professional Experience**

- United States Department of Justice, National Security Division, Counsel to the Assistant Attorney General (2016)
- National Cyber Investigative Joint Task Force, Department of Justice Representative (2015-2016)
- United States Department of Justice, National Security Division, Counterintelligence and Export Control Section, Trial Attorney (2014-2016)

- United States Attorney's Office, Southern District of California, Assistant United States Attorney (2007-2014)
- United States District Court, District of New Mexico, Law Clerk to Hon. Bruce Black (2006-2007)
- LeBoeuf, Lamb, Greene & MacRae LLP, New York, New York (2003-2006)

## **Bar Admissions**

- Arizona
- California
- New York

## **Court Admissions**

- Supreme Court of Arizona
- Supreme Court of California
- Supreme Court of New York
- United States Court of Appeals, Ninth Circuit
- United States District Court, Central District of California
- United States District Court, District of Arizona
- United States District Court, District of Colorado
- United States District Court, Southern District of California
- United States District Court, Western District of North Carolina