

# GRAVES GARRETT NEWS

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Partner Nathan Garrett and his family recently spent several days in Colorado and enjoyed white water rafting, fly fishing, hiking and zip-lining.

## Letter from the Firm

Graves Garrett is pleased to share with you our latest newsletter highlighting developments within our firm, successes achieved by our clients, colleagues and friends, as well as updates on our involvements in the community.

We are pleased to report that the firm has continued to achieve successful outcomes in commercial litigation matters, as well as in cases involving the government. Notably, our firm obtained three significant client outcomes, including cases involving a trial court victory in a Right-to-Work case; an outcome that resulted in the invalidation of a portion of Missouri's Constitution; and another win in a string of successes in False Claims Act cases.

It has been an exciting year thus far for our firm. With that in mind, we hope you and your families had a summer to remember. ■

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## GRAVES GARRETT CLIENT SUCCESSFUL IN OVERTURNING “AMENDMENT 2” IN DISTRICT COURT

Graves Garrett is pleased to announce that the U.S. District Court for the Western District of Missouri entered a judgment against the Missouri Ethics Commission and in favor of Graves Garrett clients Free and Fair Election Fund, Missourians for Worker Freedom, American Democracy Alliance, and others, in a matter tied to the controversial

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## GRAVES BATTLES IN RIGHT-TO-WORK CASE

Led by Partner Eddie Greim, Graves Garrett gained a trial court victory regarding a right-to-work case. A judge ruled that language for an initiative petition being used to repeal a recently created right-to-work law in Missouri was unfair.

The right-to-work law, popularly known as “Senate Bill 19,” states that it's the right of every

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Graves Garrett LLC

## FISHER APPOINTED PRESIDENT OF THE SCHOOL ADVISORY COUNCIL AT ST. THERESE



Graves Garrett is pleased to congratulate Partner Kathleen Fisher on being appointed President of St. Therese School's Advisory Council. Fisher has previously served as a member of the council for the Northland Kansas City school and largest Catholic elementary school in the Diocese.

The School Advisory Council represents the community and works closely with the principal and the pastor with the purpose of supporting

Catholic education. Fisher will oversee the 12-person committee, which includes members from the community, the pastor, the principal and assistant principal. The council works closely with the parish finance committee and other parish groups to promote the school, support teachers and advise the principal.

The Council is working to implement its strategic plan, which focuses on seven areas, for the school. The Advisory Council, which meets monthly to discuss the goals, has also worked with the school to track key performance indicators in many areas including class enrollment and test scores to help us evaluate the school's strengths from year to year.

In addition to serving as the School Advisory Council President at St. Therese, she donates her time to a number of other organizations and has led the firm's annual holiday fundraiser for Adopt-A-Family for several years. ■

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## GREIM AND FIRM ATTORNEYS ORGANIZE KANSAS CITY FEDERALIST SOCIETY EVENT



Graves Garrett Partner Eddie Greim is President of the Kansas City Lawyers Chapter of The Federalist Society for Law and Public Policy Studies. Founded in 1982, the Federalist Society is a nonpartisan organization of 35,000 conservative and libertarian lawyers, law students, scholars, and other individuals, who are interested in the condition of the current legal order.

The group recently hosted the event, "The Trump Court: Gorsuch and Where We Go From Here" on May 11 at the Carriage Club in Kansas City, Mo. Keynote speaker, C.J. Mahoney, shared his insights on the nomination and confirmation process of Judge Neil Gorsuch to the Supreme Court, including changes to the rules, and how President Trump's administration is taking on lower court judicial vacancies. Mahoney, now a partner at Williams and Connolly, clerked for Justice Anthony Kennedy of the Supreme Court and Judge Alex Kozinski of the U.S. Court of Appeals for the Ninth Circuit. ■

## GRAVES GARRETT CONGRATULATES BRENT POWELL ON MISSOURI SUPREME COURT APPOINTMENT

Graves Garrett congratulates our former colleague and friend Hon. W. Brent Powell on his recent appointment by Missouri Governor Eric Greitens to serve on the Missouri Supreme Court.

Formerly a Jackson County Circuit Judge, Powell was selected from a final short list of potential candidates, who were selected by the Missouri Appellate Judicial Commission, and then recommended to Gov. Greitens.

Judge Powell is a native of Springfield, Missouri. He completed his undergraduate degree at William Jewell College and received his J.D. from the University of Missouri-Columbia School of Law in 1996.

Powell started as a judge in Kansas City in 2008 and takes the place of former Missouri Supreme Court Judge Richard Teitelman, who passed away last November.

Previously, in the fall of 1997, he served as an Assistant Prosecutor in the Platte County Prosecutor's office, which was followed by his service working as an Assistant United States Attorney in the U.S. Attorney's Office for the Western District of Missouri. ■



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## NATHAN GARRETT BALANCES PROFESSIONAL AND FAMILY LIFE



We are excited for our Partner and friend Nathan Garrett for numerous reasons. He recently helped a multi-state healthcare company obtain a dismissal in an alleged multi-million-dollar False Claims Act lawsuit and made a compelling presentation on cyber security at the annual KCMBA Bench-Bar conference. As many of you know, Nathan regularly leverages his former life as a Missouri State Trooper, FBI Special Agent, and state and federal prosecutor to bring about uncommon results for his company and individual clients in their most troubling civil and criminal controversies. And, as folks familiar with Nathan's style well know, his energy and passion

for his clients knows little reprieve, so we're excited that Nathan had a chance to spend time traveling with his family this summer.

In June, Nathan, an avid pilot, flew his wife Adrienne and their children to Boulder, Colorado for an official college visit for their daughter, Payton. While there, the family spent several days fly fishing in Rocky Mountain National Park, hiking the Flatirons, and white water rafting and zip-lining nearby rivers and canyons. Shortly after arriving back in Kansas City, the family headed out again, this time flying to Door County, Wisconsin for a week with Nathan's extended family. With 11 family members, including grandparents, parents and children, the Garrett family shared a home and enjoyed a terrific week on the shores of Lake Michigan in one of the truly great places in the Midwest.

Nathan's travels cap the start of a very strong year professionally for Nathan and the firm. Nathan, and the entire Graves Garrett team,

continue to be the go-to lawyers for clients of all sizes and stripes facing nationwide litigation and investigative threats in private and governmental matters.

In addition to his litigation achievements, Nathan was also a featured speaker on cyber security at the Kansas City Metropolitan Bar Association's 44th Annual Bench-Bar & Boardroom Conference in Branson, Mo. Recognized as a Cybersecurity & Data Privacy Trailblazer by *The National Law Journal*, Nathan's presentation, titled "Cyber Security Concerns for Lawyers," addressed the ever-emerging area of cyber security law and the expectations surrounding it, such as liability regarding breaches and the steps data holders should take before and after a known or suspected breach.

Nathan's leadership and expertise has proven invaluable to our firm and its clients. ■

## GRAVES GARRETT OBTAINS DISMISSAL IN HEALTHCARE FALSE CLAIMS ACT CASE

Partners Nathan Garrett and Kathleen Fisher obtained a dismissal from the U.S. District Court for the Northern District of Texas in a False Claims Act matter involving a healthcare company implicated in a multi-state whistleblower action.

"We are pleased that the government declined to intervene and that the case was ultimately dismissed following a strong and thorough defense in which our client demonstrated its compliance with the applicable federal statutes and regulations impacting its operations," Garrett said. "Our client's clinics in several states were implicated and the company faced a threat of damages that could have significantly and

negatively impacted its ability to remain in business. We could not be more pleased to have helped them avoid that outcome."

Graves Garrett has represented both relators and defendants in False Claims Act ("qui tam") cases in jurisdictions across the nation, ranging from federal construction disputes to pharmaceuticals, laboratories, healthcare operations and other federal payor-involved disputes. The firm's expertise and credibility in working with the government, along with the significant trial experience of its attorneys, has contributed to its ability to obtain favorable outcomes in numerous False Claims Act cases.

Most recently, Graves Garrett was successful in a relator matter in United States District Court for the Middle District of Tennessee where the firm assisted the United States in securing a favorable settlement for the government and our firm client in United States ex rel. Newman v. OPKO Health Inc., et al.

Previously, the firm was recognized by the *Kansas City Business Journal* for securing the dismissal of three multi-million-dollar FCA lawsuits in Kansas and Missouri federal courts. ■

## GRAVES GARRETT CLIENT SUCCESSFUL IN OVERTURNING “AMENDMENT 2”

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“Amendment 2.” The Ethics Commission has only appealed part of the district court’s ruling, which means that much of the lower-court win is no longer subject to challenge.

“The federal district court’s order provides an example of the federal judiciary’s essential role in protecting First Amendment rights from infringement by states, even an unlawful state constitutional amendment,” said Partner Eddie Greim, who with Partner Todd Graves and Associate Alan Simpson served as counsel. “Amendment 2 is deeply flawed. It even prohibited its opponents from spending their own money to ask voters to fix its unconstitutional provisions. But the judgment has sent a clear message that a

statewide vote cannot trump the freedom of speech.”

In November 2016, Missouri voters adopted “Amendment 2,” which amended the Missouri Constitution to ban certain entities from making contributions to political committees, as well as limit campaign contributions. Amendment 2 sought to limit the amount of contributions to political action committees, including committees that do not make candidate contributions. Amendment 2 also prevented certain types of corporations from contributing to political action committees (“PACs”) and contained vague provisions regarding how contribution limits would apply.

Additionally, Amendment 2 banned corporations and labor

unions from making contributions to political committees that only spend money on ballot measures. As the plaintiffs argued, this provision violates the First Amendment to the U.S. Constitution. The district court recognized that banning corporate and union contributions for ballot measure advocacy has been invalid under the First Amendment for nearly 40 years.

This judgment is the first of its kind preventing enforcement of Amendment 2. Now, at the Ethics Commission’s request, the United States Court of Appeals for the Eighth Circuit will review one part of the district court’s ruling, which overturned Amendment 2’s blanket prohibition on PAC-to-PAC contributions. Stay tuned. ■

## GRAVES GARRETT BATTLES IN RIGHT-TO-WORK CASE

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employee to work for a living without being required to join a labor union or pay union dues. In December 2016, The Missouri American Federation of Labor – Congress of Industrial Organizations (AFL-CIO) filed ten initiative petitions to propose amending the Missouri Constitution to prevent Missouri from becoming a Right-to-Work state, or to repeal any right-to-work law.

Former Secretary of State Jason Kander wrote ballot language for these proposed amendments.

Although Kander told the public that comments would be accepted for 30-days, he cut short that public comment window. Kander certified the ballot language the day his successor, Jay Ashcroft, was sworn into office—January 9, 2017.

Graves Garrett was hired by Missouri resident Paul Evans, who filed suit against Kander to reverse the unlawful action. On March 23, 2017, the trial judge found that the language Kander wrote was inadequate, biased, and deceptive. The Court found Kander ignored the public’s comments when he wrote ballot language. The trial judge

wrote new language based on suggestions from current Secretary of State, Jay Ashcroft.

The Court of Appeals partially reversed the trial court’s decision on June 27, 2017, but left some changes intact. In a separate case also brought by Evans, involving a union-backed referendum against the right-to-work law, the trial court certified a new ballot title. In another expedited appeal, the Court of Appeals found that the ballot title might well have “embarrassing” errors, but was legally sufficient, and reversed the trial court. Now, Evans is seeking to transfer both cases to the Missouri Supreme Court. ■