

GRAVES GARRETT NEWS

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INSIDE THIS ISSUE

- > 10th Circuit Win for Client 1
- > Firm Noted in WSJ Article 1
- > SCOTUS: No Freezing Assets 2
- > Bailey, Family Find Success 3
- > Hurst Joins Graves Garrett 4
- > Greim Named to 40 Under Forty 4
- > Graves Joins Ballotpedia Board 4



Graves Garrett was pleased to be joined by colleagues and friends at its 10-year anniversary, including the Hon. Brent Powell and Assistant U.S. Attorney Dan Nelson, both of whom worked with Todd and Nathan during their time at the U.S. Attorney's Office.

Letter From the Firm

Thank you for your support the last 10 years.

In honor of the firm's 10th anniversary, Graves Garrett recently hosted an open house as a way to say thank you to its family and friends who have supported our firm throughout the years. We appreciated the opportunity to visit with so many colleagues from our current work and previous roles in the Kansas City community.

We are fortunate to have reached this milestone as a firm, and it is important to us that you know how much we value your support and business. We look forward to many more years to come with you. ■

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10TH CIRCUIT RULES IN FAVOR OF GRAVES GARRETT CLIENT

Graves Garrett is pleased to announce that following briefing and oral argument, the U.S. Court of Appeals for the Tenth Circuit has ruled in favor of firm client Black & Veatch Special Projects Corp. in a Federal False Claims Act ("qui tam") case previously dismissed by the U.S. District Court for the District of Kansas.

Continued on the next page

WSJ REPORTS ON 6TH CIRCUIT WIN IN CLASS ACTION

Graves Garrett was recently featured in a *Wall Street Journal* article regarding its representation

Continued on page 3



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SCOTUS DECISION PREVENTS GOVERNMENT FROM FREEZING “UNTAINTED” ASSETS



By Nathan Garrett

On March 30, 2016, the Supreme Court issued a decision in *Luis v. United States* that limits the government's ability in certain cases to freeze a defendant's assets before trial.

Sila Luis was accused of involvement in a Medicare fraud scheme allegedly costing the government nearly \$45 million. In an effort to ensure the availability of Luis' remaining funds (approximately \$2 million) to pay restitution and applicable fees if found guilty, the government prevented her from dissipating her admittedly “untainted” assets prior to the trial — assets, she argued, that she would have used to hire an attorney.

The defense argued that the government's actions violated the Sixth Amendment, which guarantees the right to effective counsel and, by extension they argued, the freedom to hire an attorney of one's choosing when financially able — with untainted assets — to do so. The government's actions, the defense argued, unconstitutionally prevented Luis' exercise of that right.

While asset freezes are nothing unusual in criminal practice, specific statutes, as here, permitting pre-trial seizure of monies not specifically linked to the crime or otherwise considered contraband present a more challenging situation.

In a 5-3 ruling, the U.S. Supreme Court agreed that preventing a defendant from using “untainted” funds to seek legal counsel does, in fact, violate the Sixth Amendment by undermining the Amendment's very purpose: to permit one to hire an attorney of his or her choosing.

The win is a significant set-back for government enforcement efforts at “locking up” a defendant's financial resources beyond those proceeds directly attributable to the underlying offense. The case highlights the need to be vigilant in investigating and evidencing the lawfulness of seized funds in such cases to ensure that seizure orders don't run afoul of this significant ruling.

The Graves Garrett team includes former federal and state prosecutors, agents and forensic accountants. The firm regularly aids individual and business clients in careful navigation of government investigations, as well as in a variety of complex and high-stakes commercial litigation, campaign finance and election law matters. ■

10th Circuit Rules in Favor of Graves Garrett Client, continued

The U.S. Court of Appeals affirmed the District Court ruling finding that relators (plaintiffs) could not prove their claims in a case involving the company's contractual operations in support of U.S. efforts in Afghanistan.

“We agree that relators cannot prevail as a matter of law,” Circuit Judges Harris Hartz, Gregory Phillips and Carolyn McHugh stated in a published opinion on April 22, 2016.

Based on the relators' “failure to prove materiality,” the Court affirmed U.S. District Judge Daniel Crabtree's prior determination that “no rational jury” could find legal merit to claims that Black & Veatch Special Projects Corp. had defrauded the U.S. government.

Black & Veatch Special Projects Corp. tapped Graves Garrett Partner Nathan Garrett, a former federal prosecutor and FBI Special Agent, to lead the defense team along with partner Kathleen Fisher and counsel Miriam Bailey.

The Graves Garrett team offers unique experience involving the False Claims Act and has been publicly recognized for its successful nationwide representation of both relators and defendants. ■



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MIRIAM BAILEY, FAMILY FIND SUCCESS WITH WORK, FAMILY, COMMUNITY



Graves Garrett was delighted to have Miriam Bailey's husband, John, cater the

firm's recent 10-year anniversary celebration. Miriam recently became a member of our firm when she joined Graves Garrett as counsel, having significant previous experience in appellate work.

Miriam and John are co-owners, with long-time friends Gilbert and Amber Macapagal, of Longboards Wraps and Bowls. Longboards is a Pacific-rim, surf-inspired restaurant that grew out of Gilbert's Filipino roots, as well as his chef stints in Hawaii, California, restaurants throughout Kansas City and, immediately preceding his opening of the first Longboards location, the Cerner World HQ cafeteria. The local chain now includes three KC-area restaurants with another slated to open in Lee's Summit in June 2016. John and Gilbert, friends for more than 20 years, joined forces to expand on Gilbert's original location to combine Gilbert's talent as an accomplished chef and John's business-operations experience.

"Gilbert worked at a number of well-regarded KC eateries and was working in Cerner's corporate cafeteria when he was inspired to open his own place," Miriam explained. "His wraps had earned a strong and loyal following at Cerner, so Gilbert opened a North Oak Trafficway storefront that was close enough to continue serving the Cerner lunch crowd, and that also attracted new faces."



Miriam and John officially became co-owners of Longboards when the team opened Longboards' Liberty location in 2011. Business rapidly expanded, with a third location now open in Mission, Kan.

In addition to her law practice and his role with Longboards, Miriam and John are both active in the community. At St. Luke JOY Presbyterian Church, Miriam is the worship leader and missions elder and John serves as a

deacon. Miriam is also active as an advisory board member to Operation Breakthrough.

In her role with the firm, Miriam helps clients with complex commercial litigation matters. She joined the firm with nearly a decade of legal experience with an emphasis on significant trial and dispositive motions and appellate briefing for both public and private clients, including in "bet-the-company" cases.

She joined Graves Garrett because of the firm's reputation, its culture, and the relationship she had with its attorneys.

"I wasn't looking to switch firms, but had known Todd since his wife Tracy gave me my first job when I was in high school. I also performed a few research projects for the firm when I was in law school," Miriam said.

Miriam said she ultimately decided to make the move because it provided her an opportunity to develop her practice further while working on truly challenging and interesting cases in a close-knit environment. "Not only great work, but truly solid people," she said. "I'm proud to be here." ■

WSJ Reports on 6th Circuit Win in Class Action, continued

of a class of several hundred conservative and libertarian groups.

The firm represents the class in allegations that the IRS slowed applications for tax-exempt status based on groups' perceived political views and subjected these groups to unnecessary questions.

As a result of the 6th Circuit's interlocutory decision in the case, *NorCal Tea Party Patriots, et al. v. United States*, Graves Garrett gained access to key lists of targeted applicants compiled by the IRS — documents the IRS had resisted producing for 18 months.

According to the article, Judge Raymond Kethledge of the U.S. Court of Appeals for the Sixth Circuit wrote, "The law

does not entitle the IRS to keep secret (in the name of 'taxpayer privacy,' no less) every internal IRS document that reveals IRS mistreatment of a taxpayer or applicant organization — in this case or future ones."

According to Partner Eddie Greim, the case should go to trial next year. ■



FIRM ADDS FORMER U.S. ARMY JUDGE ADVOCATE



Graves Garrett is pleased to welcome former U.S. Army counsel and federal prosecutor

Ben Hurst to its team of attorneys.

Prior to joining Graves Garrett, Hurst served as a U.S. Army Judge Advocate, where he specialized in the areas of labor and employment law in addition to administrative law. Additionally, he served as a Special Assistant U.S. Attorney in the Western District of Kentucky. At Graves Garrett, Hurst will provide legal counsel to individuals and businesses in the areas of commercial litigation, white collar criminal defense litigation, compliance and internal investigations.

Hurst earned his law degree from the University of Virginia School of Law. ■

EDDIE GREIM SELECTED FOR INGRAM'S 2016 "40 UNDER FORTY"

Graves Garrett is pleased to announce that partner Eddie Greim has been selected for the 2016 class of *Ingram's* magazine's "40 Under Forty," which recognizes individuals under the age of 40 who have demonstrated an above-and-beyond commitment to their careers and to their communities.

Greim has established a successful practice in the highly unique discipline of free speech and election law, as well as areas such as complex commercial and securities litigation, internal investigations and qui tam and whistle-blower claims. Greim has made arguments before the Missouri Supreme Court on four occasions, managed a trial and appellate litigation relating to the controversial Missouri court plan, managed litigation regarding recent initiative petitions and constitutional amendments, and has overseen multiple internal investigations.

Greim was selected for "40 Under Forty," in part, for the high-profile nature of his cases, including one that received recent praise from *The Wall Street Journal*: Greim led the firm's efforts in a highly visible case against the Wisconsin Government Accountability Board in which the firm's clients were unlawfully targeted in a "John Doe" investigation for supporting Wisconsin Gov. Scott Walker. In addition, Greim currently serves as counsel in the first class-action lawsuit in the nation to challenge the IRS regarding its improper targeting of conservative groups.

Alongside his legal practice, Greim constantly looks for ways to contribute to his community. From 2013-2014, he was Chairman of the Public Policy Committee of the Missouri Catholic Conference, which sets and approves the Conference's legislative and lobbying agenda and advises Missouri's Catholic bishops on matters of public policy. Eddie is also the Treasurer and Lecture Series Director for the Catholic Lawyers' Guild of Kansas City and president of the Kansas City Chapter of the Federalist Society. ■

GRAVES ELECTED AS DIRECTOR TO BALLOTPEDIA BOARD

Graves Garrett Partner Todd Graves was recently elected to the board of directors for Ballotpedia, an organization dedicated to building the Encyclopedia of American

Politics. As a board member, Graves will play a pivotal role in the strategic leadership of the organization, which was founded in 2006 in Madison, Wis. Ballotpedia's staff has created more than 225,000 professionally curated, high-quality encyclopedic articles that have garnered over 534 million page views on its website, www.ballotpedia.org.

In addition to his involvement with Ballotpedia, Graves dedicates his time to a number of other community organizations, including serving as President of the Pony Express Council of the Boy Scouts of America, as a member of the Board of Directors of the American Royal Association and as a member of the Board of Directors for Herzog Contracting Corp. ■