

# GRAVES GARRETT NEWS

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## GRAVES GARRETT REPRESENTS ONE OF INDIA'S LARGEST TECH COMPANIES

Wipro, a global leader in information technology, has relied on Graves Garrett to handle a variety of its legal matters, including civil litigation and internal investigations.

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## Graves Garrett Tapped in Wisconsin Finance Case

Graves Garrett is representing a party in an ongoing "John Doe" investigation of political groups involved in the contentious 2011 and 2012 recall elections in Wisconsin. The sprawling investigation and ensuing litigation caught the attention of national media, including ongoing coverage in *The Wall Street Journal*.

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Graves Garrett LLC

## Letter from the Firm

### We're Thankful For Our Client Relationships And Wish You a Prosperous New Year.

This past fall, the Graves Garrett family took an opportunity to gather away from the office to reflect on everything we were thankful for as a firm. This reflection reinforced our profound gratitude for our community of families, colleagues and friends. So, too, we are eternally grateful for our clients, the individuals and businesses who turn to us with their most challenging concerns. We thank you for your trust and assure you of our continuing and unrelenting commitment to earning that trust. To each of you, thank you. ■

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# Prevention is the Best Medicine in Avoiding Whistle-Blower Claims



*Kathleen Fisher, whose practice includes defending and prosecuting False Claims Act cases,*

*recently published an article on whistle-blower actions in Law360, a national legal newswire. The following is a unique article addressing the same topic:*

As the Affordable Care Act adds new state-sponsored plans and federal subsidies for patients, the reach and impact of the False Claims Act (“FCA”) continues to expand in the healthcare industry. FCA suits, also known as whistle-blower suits or qui tam actions, incentivize whistle-blowers to bring suits against providers that knowingly submit false claims for payment to the government. Whistle-blowers, often employees of a provider, can earn up to 30 percent of any amount recovered by the government. Further, FCA suits can expose providers to a criminal investigation and prosecution for health care fraud or other offenses.

Rather than join those who are making headlines for paying hundreds of millions in fines as a result of whistle-blower claims, healthcare organizations must take proactive steps to prevent and protect their organizations from FCA liability, as well as prepare to swiftly and effectively react to potential claims.

## **Preventing the whistle from being blown**

The most direct way to avoid FCA liability is with routine audits.

Effective audits review a random selection of an organization's claims for payment and any underlying medical records that substantiate the basis for

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**“The most direct way to avoid FCA liability is with routine audits. The value of these audits is enhanced when they are performed by an external firm, which ensures objectivity and transparency.”**

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those claims. The value of these audits is enhanced when they are performed by an external firm, which ensures objectivity and transparency. Further, this practice can be a powerful demonstration of a provider's commitment to compliance and can be useful in defending any future false claim allegations.

While inadvertent or isolated false claims may be resolved by promptly refunding improper payments, providers who identify intentional false claims should immediately contact legal counsel to start down a path of voluntarily disclosing the information and proactively resolving the issue, which may also require employee termination.

Routine audits and appropriate corrective action allow providers to distance themselves from bad actors and demonstrate that the overall practice was not aware of the misconduct. At the same time, the process can minimize financial liability and other collateral consequences.

## **Responding to a whistle-blower**

If a party comes forward with an allegation of an improper claim for payment, providers should immediately take aggressive steps to investigate and address the claim. While unintended billing errors frequently occur within the healthcare industry, an appropriate investigation and response to allegations will help a provider avoid more serious liability. Importantly, if a healthcare organization becomes aware that a whistleblower has approached the government, legal counsel should be consulted immediately.

As the government's role in healthcare continues to expand, all providers should be informed about their potential exposure under the FCA. A commitment to frequent audits, prompt attention to inaccurate submissions and a diligent response to any false claim allegations will ensure that providers avoid the serious repercussions a blown whistle can carry. ■

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## **Graves Garrett Represents One of India's Largest Tech Companies, continued**

Wipro is one of the largest companies in the world with 145,000 employees serving more than 900 clients in 57 countries. The company, known globally for capitalizing on the latest technology to serve business clients, posted revenues of \$6.9 billion for the most recent financial year.

Headquartered in Bangalore, India, Wipro selected Graves Garrett for the firm's strength in commercial litigation, government compliance and investigations. ■

## Graves Garrett Tapped in Wisconsin Finance Case, *continued*

Wisconsin “John Doe” proceedings are unique. They have been likened to a one-man grand jury, and vest enormous discretion and wide-ranging investigative power in the hands of the prosecutor and “John Doe” Judge, who does not sit as a court of record. The judge, specifically appointed at the direction of the Wisconsin Supreme Court, has the power to issue subpoenas and warrants, question witnesses, and ultimately, decide whether there is probable cause to charge a party with a crime. The investigation is subject to broad secrecy orders.

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The current proceeding is the first of its kind because it is being run by a special prosecutor who appears to be acting in five separate jurisdictions.

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The current proceeding is the first of its kind because it is being run by a special prosecutor who appears to be acting in five separate jurisdictions. Additionally, it has presented questions about how the First Amendment and campaign finance law apply to independent groups who engage in issue advocacy during candidate elections. This topic is particularly relevant given developments at the federal level, including the United States Supreme Court’s decisions in the Wisconsin Right to Life and Citizens United cases, the still-unfolding scandal surrounding the IRS’s treatment of independent issue groups, and the IRS’s proposed new regulations for those same groups. ■

## Todd Graves Featured for Family Farming, Cattle Ranching



The *Kansas City Business Journal* recently featured Todd Graves’ growing, 150-cattle farming business in an article, titled “Former U.S. Attorney Graves grows cattle ranching business.”

While many in the Graves Garrett family know Todd for his former public service as a U.S. Attorney and state prosecutor, “fewer people know that at the end of the day, Graves drives home to the same farm outside Smithville that his great-great-great-grandparents settled in 1867,” the *Business Journal* reported.

In addition to highlighting that Graves’ beef can be found in local restaurants, including Anton’s Taproom, the *Business Journal* highlighted similarities in the work involved with farming and the practice of law.

“Fewer people know that at the end of the day, Graves drives home to the same farm outside Smithville that his great-great-great grandparents settled in 1867.”

“The greatest lesson I learned from my dad in farming that applies to lawyering, is let’s say you’re digging a fence post hole, and it’s hard, and people want to start thinking of all the different tools they can use, the different ways to do it, the different strategies,” Graves said in the article. “My dad would say just do it, just execute. Lawyers spend hours and hours trying to pick the best strategies, when in fact there are three that would work well, and eventually you need to start pulling dirt out of the hole.”

In addition to being featured in the *Kansas City Business Journal*, Graves’ involvements in cattle ranching have been featured by *The Wall Street Journal*, as well as Kansas City’s *Pitch Weekly*. *The Wall Street Journal* featured Graves in a video report on the American Royal’s 2013 Grapes & Steaks Competition, which is a contest he created two years ago and stands as the nation’s only organized effort to judge America’s best steak. In addition, The American Royal competition served as inspiration for a steak blind taste test organized by and featured in *The Pitch*. The Kansas City publication tapped Graves as a taste tester in its quest to find the best butcher shop steak in the Kansas City area.

“Steak is what is unique about the Midwest,” Graves said in *The Pitch* article. “It’s the most popular protein and what Kansas City is known for. This is the Napa Valley of steak.” ■

## Partner Nathan Garrett Publishes Article on Security Procedures in *BankNews Magazine*

*BankNews* magazine recently featured an article authored by Partner Nathan Garrett, titled "Invest in Ironclad Security Procedures." Garrett's article offers banks critical advice on considerations to be made when deciding how to best protect a bank and its clients from security incidents such as account takeovers. The article addresses bank security procedures, steps that can be taken to prevent account takeovers, employee training, and customer agreements.

"Talk with your security provider about the procedures used by similar banks for similar customers. In the unfortunate event that a financial loss leads to litigation, the court will ultimately decide whether a bank's security procedures are commercially reasonable. Banks that can respond with current and ironclad procedures will be in the best position to protect against liability." ■

## **SUPER LAWYERS HONORS GRAVES GARRETT ATTORNEYS IN KC, DALLAS**

The 2013 edition of *Missouri & Kansas Super Lawyers* recognized Todd Graves, Nathan Garrett and

## **GRAVES GARRETT SEEKING EXPERIENCED COMMERCIAL LITIGATION ASSOCIATE**

We realize the best place to start our search for an experienced litigation associate is within our own network of colleagues and friends. With that in mind, we would appreciate you considering whether you may know someone who would be a good fit for our firm.

You know our practice and our commitment to client service. If you know a candidate who is proficient in the full range of litigation, we would appreciate you encouraging them to contact us. Resumes may be submitted to Stephanie Goodnight at [sgoodnight@gravesgarrett.com](mailto:sgoodnight@gravesgarrett.com). ■

## **Graves Garrett Partner Speaks at Religious Liberty Summit**



Edward Greim was a speaker during the Religious Liberty Summit – an event hosted in Kansas City seeking to create a coalition committed to fighting for religious liberty in our society.

Greim's presentation, entitled "The Right to Privacy: Bane or Bulwark of Religious Freedom?" explored privacy's effect on religious freedom.

"Can we support a robust right of privacy as a bulwark of religious freedom yet reject a robust right of privacy grounded solely in individual autonomy?" Greim asked during his presentation. "Yes, but the privacy that supports religious freedom is a limited right that melds with other key human rights. It is only a means to an end."

Greim was selected to speak during the event in part because of his experience in complex commercial litigation and appellate, free speech, election and constitutional law. ■

four other Graves Garrett attorneys in its highly selective *Super Lawyers* and *Rising Stars* listings.

The Thomson Reuters publication recognized Todd Graves and Nathan Garrett on its *Super Lawyers* list and Clayton Callen, Kathleen Fisher, Edward Greim and Paige Strack on its *Rising Stars* list.

Only 5 percent of attorneys in each state make the annual *Super Lawyers* list, and no more than 2.5 percent of attorneys in each state who are either 40 years old or younger or have been practicing for 10 or fewer years make the *Rising Stars* list. ■