

# GRAVES GARRETT NEWS

A PUBLICATION OF GRAVES GARRETT LLC | WINTER 2015

[www.gravesgarrett.com](http://www.gravesgarrett.com)



## Letter from the Firm

### From Our Family to Yours: We Wish You a Prosperous New Year

As we look toward the New Year, Graves Garrett would like to extend our deepest gratitude to our clients, colleagues and friends for the opportunity to have you as part of our family. We enjoyed working with you to make 2014 a success, and we look forward to pursuing the altogether new challenges and opportunities that may be presented in the coming year. We continue to be thankful for the trust and confidence you have in our firm. ■

## INSIDE THIS ISSUE

- > Graves Leads Free Speech Debate 1
- > Garrett Comments on SEC Payout 1
- > Whistleblower Awards Hit High 2
- > Attorney Spotlight: Dane Martin 3
- > Graves Supports American Royal 4
- > Firm Investigates Voter Fraud 4
- > Firm Makes U.S. News, KCBJ Lists 4

### Todd Graves Participates in Panel Discussion on Free Speech

Graves Garrett Partner Todd Graves recently participated in a discussion of the procedures surrounding the protection and enforcement of Freedom of Speech during the Federalist Society's 2014 National Lawyers Convention. The session, titled "How First Amendment Procedures Protect First Amendment Substance,"

*Continued on next page*

### LAW360 SEEKS NATHAN GARRETT'S COMMENT ON SEC PAYOUT

Law360 recently sought Graves Garrett Partner Nathan Garrett's opinion on a record award of \$30 million to a corporate whistleblower.

*Continued on page 3*



Graves Garrett LLC

# SEC Reports 2014 Whistleblower Awards Hit All-Time High

Both the number and dollar amount of whistleblower awards hit an all-time high during the 2014 fiscal year, according to a report the U.S. Securities and Exchange Commission (SEC) released recently. With record-breaking awards and new measures to protect whistleblowers, the number of whistleblower complaints is on the rise.

The SEC has issued 14 whistleblower awards since the program began with the Dodd-Frank Wall Street Reform and Consumer Protection Act in 2011. But nine of the 14 were authorized this year, according to the annual report of the SEC's whistleblower program. The amounts reached all-time highs as well, with more than \$30 million awarded to a single whistleblower in September — more than double the previous high amount awarded.

In the report, Sean X. McKessy, Chief of the Office of the Whistleblower (OWB), outlined several ways the cases this year reflect the SEC's priorities and reach:

*It is not enough for companies to have internal mechanisms for reporting violations. They must act on credible allegations when employees raise concerns. This was a factor in two awards this year.*

*The SEC is active in helping define and enforce anti-retaliation protections under Dodd-Frank. It filed supporting briefs in several private cases pending in the federal courts, arguing that employment protections should be understood to protect individuals at publicly traded companies from employment retaliation when they internally*

report potential securities law violations.

*Foreign nationals also qualify for the program. In fact, the whistleblower in the \$30 million award case lives in a foreign country. This is the fourth time the commission has issued an award to someone living outside of the United States.*

---

## The number of whistleblower tips to the OWB rose 20 percent in the 2014 fiscal year.

---

*Some whistleblowers from previous years received additional payments this year as additional amounts were recovered. For example, one award increased from \$50,000 to \$385,000.*

*Protecting the confidentiality of whistleblowers is paramount for the SEC, and the Commission enhanced training of its staff to make sure confidentiality is vigorously protected.*

All of these measures are designed by the SEC to encourage people to come forward when they suspect violations of the federal securities laws. And it seems to be working. The number of whistleblower tips to the OWB rose 20 percent in the 2014 fiscal year. The most common complaint categories reported by whistleblowers included corporate disclosures and financials (16.9 percent), offering fraud (16 percent) and manipulation (15.5 percent).

Graves Garrett is keeping a close

watch to see how whistleblower claims are investigated, prosecuted and defended. Our qui tam and whistleblower team includes a former U.S. attorney, a former FBI special agent, former federal and state prosecutors and forensic accountants.

Source: 2014 Annual Report to Congress on the Dodd-Frank Whistleblower Program, U.S. Securities and Exchange Commission. ■

---

## Graves Participates in Panel Discussion, continued

---

explored "the various procedural safeguards applied – or not applied – in the context of the Freedom of Speech."

Graves was invited to participate on the panel based on his experience and success in the growing and highly regulated field of political and election-related speech.

Other panelists included Prof. Aaron H. Caplan, Loyola Law School, Los Angeles; Prof. Robert A. Destro, The Catholic University of America Columbus School of Law; Prof. Alan B. Morrison, Lerner Family Associate Dean for Public Interest and Public Service Law and Professorial Lecturer in Law, The George Washington University Law School; and Prof. Eugene Volokh, Gary T. Schwartz Professor of Law, University of California, Los Angeles School of Law. Serving as moderator of the panel was the Hon. David R. Stras, Associate Justice, Minnesota Supreme Court.

The Federalist Society's National Lawyers Convention was held Nov. 13-15 in Washington, D.C. ■

## Law360 Seeks Garrett's Comment, continued

The payout by the U.S. Securities and Exchange Commission is the largest made by the SEC's whistleblower program to date. Garrett, a former federal prosecutor and FBI Special Agent, responded to the inquiry by explaining that the publicity surrounding the case and the record award will "elevate the interest of prospective whistleblowers across the federal spectrum."

"But, with the good comes the bad, and the amount of useless, misleading or otherwise unreliable information will increase at an

---

**"I assure you, there are federal prosecutors lamenting this decision. While the stick has always been well defined, the carrot has new meaning," Nathan Garrett said.**

---

equally accelerated rate," Garrett said. "I assure you, there are federal prosecutors lamenting this decision. While the stick has always been well defined, the carrot has new meaning."

Garrett has an extensive level of experience representing companies and individuals in False Claims Act ("qui tam" and "whistleblower") cases across a number of jurisdictions. Leveraging his experience in internal leadership roles within the Department of Justice and Federal Bureau of Investigation, Garrett is recognized as a leader for his prosecution and defense of whistleblower cases involving suspected fraud against the United States. ■

## Attorney Spotlight: Dane Martin Achieves "Firsts" Both Professionally and Personally



Not only did Martin give his first oral argument before the Missouri Supreme Court, he also established an event to help the homeless.

Since joining the firm a year ago, Graves Garrett Associate Dane Martin has already made an impact. In addition to guiding clients through all aspects of litigation in federal and state courts, Dane presented his first oral argument to the Supreme Court of Missouri and served on the founding committee for Project Homeless Connect KC.

In his argument to the Supreme Court of Missouri, Dane focused on the statutory meaning of accrual for a cause of action and discussed the effect of a statute of limitations on pre-existing common law. "The case involves important issues surrounding the interaction between modern legislative enactments and existing legal doctrines that have formed an integral part of our society since the ratification of our constitution," Martin said. The Supreme Court of Missouri has yet to issue its decision.

Outside of the courtroom, Dane has also demonstrated his commitment to the community. Dane served on the founding committee for Project Homeless Connect KC, an innovative event designed to facilitate and connect existing service providers to Kansas City's homeless population in a single, central location. The first annual event took place on Oct. 10, 2014, and was by all measures a success. With more than 200 volunteers, the event helped 254 homeless individuals move their lives forward by providing access to medical and health services, state-issued birth certificates, veteran services, haircuts, housing, and job placement assistance. Dane continues to serve on the committee, which is preparing for its next event in 2015.

As a skilled litigator with experience in a broad range of business litigation matters, Dane represents businesses and individuals navigating various complex commercial litigation issues in state and federal courts. He has represented clients in matters involving breach of fiduciary duty, breach of contract, regulatory compliance and investigations, ethics and campaign finance, free speech and election law, securities law, and consumer protection law. ■

## Graves Recognized for American Royal Support

Todd Graves was recently featured in an issue of *The Stockman Grass Farmer* for his involvement in organizing the only contest in America to recognize the nation's best steak – the American Royal's 2014 Grapes & Steaks Competition.

A member of the American Royal's board of directors and chairman of state competitions for the show, Graves is also the founder of the American Royal Steak Competition. The event is intended to provide beef producers from across the nation an opportunity to compete for the best tasting steak in America.

"Our goal is to try and recapture Kansas City's reputation as the center of the steak world," Graves said. "We want the Kansas City area to be seen as the Napa Valley of steak." ■

## GRAVES GARRETT INVESTIGATION OF VOTER SIGNATURES SIGNALS WIDESPREAD FRAUD

Graves Garrett has been tapped to lead an investigation that has uncovered potentially widespread fraud by organizers of a recent initiative petition to land an early voting measure on the November 2014 Missouri ballot.

"The initiative sought to create a 42-day, no-excuse-needed early voting period that would have been one of the longest in the nation," *The Kansas City Star* reported. "Missouri currently allows absentee voting only for people who attest that they cannot vote in person on Election Day."

The investigation was initiated by political consultant Jeff Roe, who commissioned Graves Garrett to conduct a full review of petition signatures in 69 of Missouri's 114 counties. "That review identified

up to 2,246 instances of potential signature fraud across 15 counties, more than half of which occurred in Boone County," *The Kansas City Star* article said.

The signature fraud is potentially even more widespread than initially reported in Secretary of State Jason Kander's report from his elections integrity unit, the article states. Kander's report reviewed petition signature irregularities in 11 counties and ultimately referred matters to prosecutors in seven counties.

Graves Garrett was tapped to review the petition signatures due to its extensive experience in political and election law matters. The firm assists and advises clients in advancing their policy priorities by developing strategies for nationwide public interest litigation. ■

## FIRM AND ATTORNEYS EARN SPOTS ON U.S. NEWS AND KCBJ LISTS

Graves Garrett is pleased to announce that the firm has earned a Tier 3 metropolitan ranking in the U.S. News 2015 Best Law Firms list for its criminal defense: white collar practice. With former federal and state prosecutors and a former FBI agent, the team at Graves Garrett

has extensive experience litigating complex federal and state criminal cases. Our white collar defense attorneys understand how criminal prosecutions work, and are familiar with the framework, techniques and guidelines involved in complex investigations.

The U.S. News Best Law Firms rankings are based on a rigorous evaluation process that includes client and lawyer evaluations, peer review, and review of

information provided by law firms. To be eligible for a ranking in a particular practice area and metro region, a law firm must have at least one lawyer who is ranked in U.S. News Best Lawyers. Both Todd Graves and Nathan Garrett are ranked as Best Lawyers.

In addition, Garrett was named to the *Kansas City Business Journal's* 2014 list of the Best of the Bar, which honors outstanding lawyers throughout the Kansas City area. ■