

# Daily Journal

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## TOP VERDICTS OF 2017

The largest and most significant verdicts and appellate reversals in California in 2017

### TOP DEFENSE VERDICTS

# U.S. ex rel. Winter v. Gardens Regional Hospital and Medical Center Inc.

#### case INFO

**False Claims Act violation**

**Central District**

**U.S. District Judge John F. Walter**

**Defense Lawyers:** Thad A. Davis, James L. Zelenay Jr., Amruta A. Godbole, Lauren Dansey, Avery E. Masters, Vivek Gopalan, Benjamin Wagner, Jeffrey C. Krause, Gibson, Dunn & Crutcher LLP

**Plaintiff's Lawyers:** Brent A. Whittlesey, U.S. Attorney's Office; Andrew B. Goodman, Michael J. Khouri, Khouri Law Firm



AMRUTA GODBOLE



THAD DAVIS



JAMES ZELENAY

lawsuit. The sprawling case mixed health care regulation, bankruptcy law, allegations of Medicare fraud and more.

"It is one of the more complex and interesting cases I've done in 25 years," Davis said. *U.S. ex rel. Jane Winter v. Gardens Regional Hospital and Medical Center Inc. et al.*, 14-CV08850 (C.D. Cal., filed Nov. 14, 2014). Jane Winter was hired in 2014 as the director of care management and the emergency room at Gardens. In her complaint, she claims she noticed a large number of Medicare patients being admitted from nursing homes, some of them from as far as 60 miles away.

These patients then received excessive and unnecessary care, she claimed, prompting

her to review these cases and determine the company that operated Gardens was defrauding the Medicare system.

She then brought a claim under the False Claims Act, a federal law passed in 1863 to strike back against unscrupulous military contractors. The federal government recovers billions annually in qui tam cases; whistleblowers can often keep 15 to 30 percent of the money recovered.

"I'm sure she wanted to improve health care for people of Hawaiian Gardens," Davis said.

In the midst of the litigation, Gardens Regional declared bankruptcy in 2016. It ceased operations in early 2017, even as the state attorney general's office lost a legal bid to force it to stay open and serve the low-income

community surrounding it.

But Davis and the other defense attorneys stayed focused on what they say were weaknesses in Winter's claims.

"Winter cannot identify any false claim or false statement submitted to the government," Davis wrote in a November motion to dismiss. "Winter's case is premised on her second-guessing multiple physicians' decisions to admit patients for inpatient treatment."

A judge agreed, tossing the case in December.

"We are pursuing an appeal before the Ninth Circuit," said Michael J. Khouri, who represents Winter as a partner with the Khouri Law Firm in Laguna Hills.

— Malcolm Maclachlan

"I may be the only person in the world who watched 'True Detective' season two to the end," said Thad A. Davis, a partner with Gibson, Dunn & Crutcher LLP in San Francisco.

The slow and complicated police drama bombed on HBO, but it provided Davis with the perfect metaphor for the task he faced in defending Gardens Regional Hospital and Medical Center Inc. in Hawaiian Gardens from a False Claims Act