

Rising Star: Gibson Dunn's Jonathan Phillips

By **Michael Macagnone**

Law360, Washington (April 15, 2016, 7:51 PM ET) -- Gibson Dunn's Jonathan Phillips has leveraged his experience from litigating health care cases at the Justice Department to his private practice, building on his litigation record by successfully representing private clients in False Claims Act cases that has landed him a spot among Law360's top health care lawyers under the age of 40.

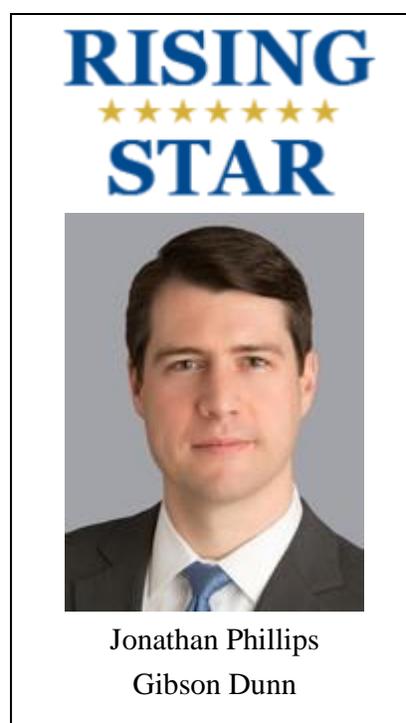
After moving to Gibson Dunn after four years at the Justice Department in 2013, Phillips, 35, has quickly worked to bring his perspective from working with the government to the benefit of his clients, helping bring home wins for Walgreens Pharmacies and Universal Health Services Hartgrove in FCA cases in the last year alone. The successful outcomes helped propel the young attorney onto Law360's 2016 Rising Stars list.

Phillips helped peel off several FCA claims brought against Walgreens this year, after a relator alleged in a California federal court that the pharmacy chain was defrauding Medicare and Medicaid through a scheme to not refund the cost of prescriptions that were not picked up, by either mailing them to a patient's last known address or returning the medications to company stocks without a refund.

U.S. District Judge Beverly Reid O'Connell's January order dismissed the complaint, with the possibility to amend, finding that the relator had not pled any falsity or any scienter on Walgreens' part. In representing clients, including Walgreens, Phillips said he's been able to bring his experience at the DOJ to help supplement knowledge about the government's perspective on litigation and its regulations.

"Having a sense of how the government will look at something is always something our clients want to know. They really want to know how the government thinks about the applicable rules and regulations, what kinds of things they would be interested in, what kinds of facts matter the most, what they view as the law," he said. "All of that goes into the mix and that is something our clients are really interested in in developing our responses to these cases."

In October, Phillips contributed to the firm's dismissal of an FCA case brought against UHS Hartgrove, a



Universal Health Services subsidiary behavioral health facility near Chicago, where a former employee alleged in an Illinois federal court that noncompliance with Illinois Medicare regulations on numbers of beds constituted claims under the FCA. There, the judge decided that the relator had not established a connection between the alleged noncompliance and any submission as a condition of payment, or that without the compliance with Medicare rules, Hartgrove's services were "worthless."

An increasing number of FCA cases in the health care arena are "bootstrapping" claims of regulatory noncompliance into allegations of false submissions for payment, Phillips said, and he's working to keep his clients abreast of these changes, especially in light of the Supreme Court's upcoming arguments in *Universal Health Services v. United States*, which will put that "implied certification" theory to the test.

"It's easy to see how that case has the potential to really impact the kind of cases that can or should be brought under the False Claims Act," he said.

Outside the courtroom, Phillips has represented a number of health care firms in complicated government investigations, involving both federal authorities and state regulators. The cases involve balancing compliance in multiple jurisdictions, such as three state Medicare Fraud Control Units across six hospitals in addition to the involvement of federal regulators.

Phillips said he finds those investigative representations stimulating "both because they present really challenging legal issues but also because they are really important to the clients."

Representing not just institutions, Phillips' work in the health care field has also taken him to the DC Bar's Health Care Access Project, where he has helped low-income individuals with large medical debts or trouble accessing public services for the care that they need. Phillips said the work there has helped him get to the heart of his practice overall: helping patients get care.

"It's almost self-evident. I think with all of my work it is not just intellectually stimulating, it is also about caring for patients, and I don't think it is hard to see there," he said.

--Editing by Bruce Goldman.
