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NELSONHARDIMAN

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Representative Transactions

John has extensive experience with healthcare litigation and regulatory compliace of public and private healthcare organizations. He has handled a number of complex transactional matters for several large healthcare organizations in Los Angeles and nationally.

- Negotiated a favorable settlement with the Department of Social Services (DSS) after filing a motion challenging DSS' grounds for the citations which resulted in the DSS filing a license renovation action against the client.
- Obtained a favorable settlement for a residential treatment facility client in an action brought by the Department of Healthcare Services.
- Obtained a dismissal of action in favor of a client on a demurrer, after the action was brought by a physician claiming the hospital violated anti-kickback statutes and other statutory violations, including an alleged violation of Health & Safety Cody 1278.5.
- Filed demurrer to have lawsuit dismissed on the grounds that it was baseless and failed to assert a legally viable claim, after a hospital filed a civil action against that a physician entered into an anesthesia services agreement in exchange for illegal kickbacks.
- Defended a physician sued by another physician for alleged civil rights and antitrust violations. After the plaintiff alleged $750 million in damages, John was able to convince the plaintiff and his counsel to abandon the lawsuit without any monetary recovery.
- Represented several healthcare providers in civil rights claims against government actors and advised others on whether they have grounds to allege that their civil and constitutional rights have been violated.
- Represented a national healthcare system in a contract dispute over the unsuccessful purchase of five financially distressed nonprofit hospitals with another healthcare system and its management company. The seller sued John's client for alleged breach of contract by pulling out of the transaction, seeking $40 million in liquidated damages. John's client countersued because the seller refused to release millions of dollars that had been deposited in escrow. The case settled favorably for John's client on the day before trial.
- Defended a skilled nursing business that was being sued for failing to close on the purchase of another skilled nursing facility. John brought a cross-complaint for fraudulent inducement against the seller, and ultimately obtained a settlement for his client in which the seller dropped its claims and agreed to pay money to John's client in exchange for a dismissal of the cross-complaint.
- Obtained a favorable settlement for an Independent Physician Association (IPA) upon filing an arbitration demand in a contract dispute over a risk pool sharing agreement between the IPA and a hospital.
- Defended an addiction treatment provider from an alleged breach of settlement agreement, convincing the court that it had no jurisdiction to enforce the settlement agreement that was allegedly breached.
- Represented out-of-network hospital in litigation against Blue Cross and ERISA plan for violating a provision of the California Knox-Keene Act. In a published opinion in the case, *Coast Plaza Doctors Hosp. v. Blue Cross of California, 173 Cal.App.4th 1179* (2009), the California Court of Appeal, Second District in Los Angeles, held that the Knox-Keene provision was not subject to ERISA preemption because it fell within ERISA's savings clause. The case ultimately settled favorably.
- Defended a large Southern California IPA in a case brought by a physician whose contract with the IPA was terminated. The physician argued that his common law right to a fair hearing had been violated and was seeking $10 million in damages. John was able to negotiate a favorable settlement for his client before the trial date.
- Obtained a complete dismissal with prejudice on the grounds that there was no merit to the claim of a federal False Claim Act lawsuit brought against a hospital, alleging that the hospital defrauded the Medicare program. The ruling was later affirmed on appeal.

- Represented national provider of pharmacy services and their patient in a federal lawsuit brought against Blue Shield of California and the federal Office of Personnel Management (OPM) for denial of IVIG treatments provided to a federal employee under the Federal Employee Health Benefits Act (FEHBA). OPM conducted an independent review of the claims and determined that the treatments were medically necessary, ordering Blue Shield to issue benefits.
- Obtained a favorable settlement in a breach of contract lawsuit against a large HMO that refused to refer radiology services to the district of San Bernadino County.
- Obtained a favorable settlement for an infusion pharmacy client who sued a large national health insurer, alleging that the insurer had underpaid on claims in excess of $1 million.
- Obtained a class-wide settlement for a set of outpatient surgery centers (ASCs) in a federal putative class-action lawsuit against United Healthcare, Ingneix, and numerous ERISA plans for alleged failure to reimburse the ASCs properly.
- Handled numerous peer review matters on behalf of physicians and medical staff.
- Negotiated a favorable settlement in the peer review hearing of a physician accused of violating the medical staff's conflict of interest policy when he invested in a medical device distribution company. The settlement allowed the physician to avoid 805 reporting to the Medical Board and the National Practitioner Data Bank.
- Represented a large teaching hospital and its medical staff in a California Superior Court hearing to defend a JRC's decision to revoke a physician's privileges. The JRC's decision was upheld by the court and was later affirmed on appeal.
- Negotiated confidential settlement agreements after a major health insurer refused to pay numerous addiction treatment centers, alleging fraudulent activity. Our clients received payment for their claims and the insurer released their claims against them, resulting in a favorable outcome while avoiding an expensive lawsuit.
- Obtained a dismissal after an arbitration hearing in which a surgeon was alleging deceptive marketing practices in violation of the federal Lanham Act and breach of contract. A favorable settlement agreement was reached regarding the breach of contract claim.
- Reached a favorable settlement agreement after an ambulance company sued a human resource provider and liability insurer over their failure to defend and indemnify in an underlying wrongful termination lawsuit brought by former employees.
- Obtained an injunction that prohibited a competing center from further use of the infringed trade name after our client, an outpatient surgery center, filed an action against a competing ASC for trade name infringement.
- Obtained a favorable settlement after our client, a hospital, sued another hospital and its management company for misappropriating trade secret information.
- Obtained a favorable settlement after a physician brought an action against our client, another physician, alleging misappropriation of trade secrets and contract interference.
- Represented a physician in a dispute with a hospital concerning the summary suspension of the physician's privileges after the physician brought to light quality of care issues in his department. The physician sued as a whistleblower under California Health & Safety Code section 1278.5 and for discrimination in violation of the California Unruh Civil Rights Act. In *Armin v. Riverside Community Hospital, 5 Cal.App.5th 810* (2016), the California Court of Appeal ruled that the physician's lawsuit against the hospital was permitted to move forward notwithstanding the pendency of a peer review investigation.
- Obtained a favorable settlement after a former physician employee sued our client, a San Bernadino medical group, alleging wrongful termination.
- Obtained a favorable settlement after a clinic and its CEO were sued by an employee alleging wrongful termination and other employment-related claims.
- Resolved reimbursement dispute between residential addiction treatment facilities and Fortune 100 health insurance company after filing suit and engaging in aggressive discovery.
- Represented the buyer of an ambulatory surgery center and prepared a number of documents for the transaction, including the purchase agreement, lease agreement, operating agreement, medical staff bylaws, licensing agreements, marketing agreements, anesthesia services agreements, physician membership agreements, patient intake forms, and assignment of benefits and physician ownership disclosures.
- Represented an ambulatory surgery center in a Medicare audit, convincing CMS not to terminate the ASC's Medicare agreement following several surveys in which numerous deficiencies were found. John subsequently drafted a corrective action plan and worked with the ASC to correct the deficiencies.
- Represented a physician in a Medical Board investigation after a patient complained of inappropriate contact. The case was closed without any disciplinary action.

- Represented a therapist during an investigation by the Board of Behavioral Science after a complaint was submitted by a former employer. The investigation was dropped after John drafted a letter demonstrating the baseless nature of the employer's allegations.
- Negotiated a settlement between a management company and our client, their former physician employee, in a dispute over the physician's termination. The management company made the physician the "owner" of the medical practice in an effort to get around California's prohibition of corporate practice of medicine, while simultaneously maintaining significant control over the practice and the ability to force the physician to sell his shares to a successor physician. The settlement terms allowed the physician to keep his patients and receive fair compensation for his work in developing the local practice.
- Drafted policies and procedures that enable an out-of-network provider to safely and legally provide patients with discounts for financial hardship or prompt payment after counseling the provider on the risks involved with regularly forgiving or waiving their insured patients' cost-sharing responsibilities.
- Negotiated a settlement between a surgery center and their payer, after the payer "flagged" the center for alleged fee-forgiving practices in excess of hundreds of thousands of dollars in overpayments. The settlement terms provided that the allegations would be dropped, the flags would be lifted, and the claims would be paid with statutory interest.
- Drafted and revised hospital governing bylaws, medical staff bylaws, and rules and regulations for numerous California hospitals and medical staffs.
- Represented a Southern California university medical center in a petition for writ of mandate to overturn a Medi-Cal audit decision by the Department of Health Care Services (DHCS) regarding whether a clinic operated by the medical center was a Federally Qualified Health Clinic (FQHC). The court determined that the clinic was an FQHC and issued the writ.
- Represented a number of rehabilitation centers and ambulatory surgery centers in disputes concerning alleged overpayments for deficiencies in medical records. Following aggressive appeals, the payers abandoned the refund request altogether or dropped it in exchange for a corrective action plan.
- Represented a hospital medical staff in its investigation of a physician who was engaged in inappropriate drug dispensing practices, including removing drugs from dispensing machines for personal use. The investigation resulted in discipline that the physician chose not to appeal.
- Represented a physician who was being investigated as a result of complaints from nursing staff and patients. A resolution was reached with the medical staff and hospital administration, avoiding the need for disciplinary action.
- Obtained a favorable settlement on behalf of a healthcare district that failed to collect rent from a physician who was leasing their medical office, resulting in substantial rent payments from the physician. Subsequently, John drafted the self-disclosure to report to CMS pursuant to the Self-Referral Disclosure Protocol, after the failure to collect rent presented a potential violation of the Stark Law. A settlement was reached between the district and CMS as a result.
- Represented a medical group client during a Special Investigations Unit (SIU) investigation and audit of the medical group's alleged improper mark-up of lab testing. The investigation was subsequently dropped.
- During an investigation by an SIU leading to an adverse decision, John regularly negotiates a favorable resolution for his clients, including corrective action plans that foster an improved business relationship between the provider and the payer.
- Advised a telehealth company regarding regulatory and operational issues for providing telemedicine services across state lines.
- Drafted contract pharmacy agreements, policies and procedures for pharmacies and covered entities, advised on audits, drafted professional service agreements between covered entities and physicians, and drafted management and administrative service agreements regarding contract pharmacies and covered entities' participation in the federal 340B drug discount program.
- Negotiated a settlement agreement between a contract pharmacy client and a covered entity to resolve allegations that the contract pharmacy had failed to provide sufficient reports and was dispensing to individuals who did not meet HRSA's definition of "eligible patient." As a result of the settlement, the client was able to keep the account and the parties developed a more transparent relationship with more robust written policies and procedures.
- Resolved disputes with five cities across California regarding complaints concerning behavioral health housing.