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PERSPECTIVE

Never a Dull Moment

The resilience of health insurance fraudsters keep attorneys at Knox Ricksen LLP busy.

By Shane Nelson

Special to the Daily Journal

Litigator Maisie C. Sokolove started writing subpoenas when she was 7. “I really didn’t know what a subpoena was,” the Knox Ricksen LLP partner admitted, describing the typewriter she used for the work as “old fashioned.”

“I was writing a subpoena as the owner of a hotel where my mom had stayed,” Sokolove continued. “She took the hotel soap and shampoo while she was there. So I was demanding it back and wrote out how we would pursue legal action if the soap and shampoo wasn’t returned.”

Raised in a family of lawyers, Sokolove said there was never a doubt in her mind about whether she would pursue a legal career.

“I was born a cross-examiner,” she said with a laugh. “As soon as I could walk and talk, I was giving cross-examinations.”

Sokolove spent two years at the Office of the Alameda County Counsel after she graduated from UC Hastings College of Law in 2005. She said she joined Knox Ricksen LLP in 2007 for the chance to handle more litigation. And although she didn’t have much experience with complex health insurance fraud matters when she started at the Bay Area firm, today that area makes up her practice, and Sokolove couldn’t be more thrilled.

“There’s never a dull moment,” she said, noting that in some areas of litigation attorneys routinely see the same thing over and over. “You definitely see fraud over and over, but the types of fraud are always a little different, and often, they’re totally new and something you’ve never seen. ... It’s like whack-a-mole. One pops up that’s gone undetected for a certain amount of time, and you get that one, and then boom, another mole pops up.”

Managing Partner Thomas E. Fraysse, who joined the firm in 1982, said the boutique handled primarily insurance defense work in the 1980s and 1990s but then started to file “tons of actions” for their insurance company clients against defendants engaged in health care fraud. Today, the firm does strictly plaintiffs’ work, according to Fraysse, who said the firm focuses almost entirely



Gary Wagner / Special to the Daily Journal

From left, Maisie Sokolove & Thomas Fraysse - Knox Ricksen.

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on matters involving California’s Insurance Frauds Prevention Act, which allows whistleblowers to file qui tam suits based on false claims made to insurance companies.

Like Sokolove, Fraysse said he finds the work fascinating because every matter is different, and there isn’t much existing case law in the practice area, making issues of first impression common.

“It’s exciting because this is not the well-worn path to the well,” he said. “What makes it so much fun is the creativity involved. ... When you look at fraud schemes and people who engage in fraud-

ulent practices, they are resilient. They morph. They’re always trying to stay several steps ahead of the payers. No two schemes are exactly alike.”

The 15-attorney shop, which also has an office in Los Angeles, has been working for about seven years on a matter in which insurance companies accused doctors, hospitals and executives of taking part in a kickback scheme to purchase and implant counterfeit spinal devices into unsuspecting patients and then billing as if they’d actually used far more expensive implants approved by the Food and Drug Administration.

The firm is handling a qui tam claim representing some of the insurance companies and is also involved in personal injury lawsuits, representing more than 160 alleged victims. People of the *State of California v. CPH Hospital Management LLC*, BC572062 (L.A. Super. Ct., filed Feb 9, 2015).

“These people had spinal fixation hardware that was counterfeit, and made in a machine shop in Temecula, placed into their backs,” Fraysse said. “This went through medical doctors. This went through hospitals. Obviously, it’s for financial gain when the counterfeit material is produced at a small fraction of what genuine material would cost, and it’s just one of many examples where we’ve encountered medical predators who engage in just unconscionable behavior.”

Plaintiffs’ attorney Brian S. Kabateck is co-counsel with Fraysse on the personal injury case and said the Knox Ricksen managing partner may

know his cases better than any other attorney he’s worked with.

“He just knows the facts backwards and forwards and sideways and is all over it,” Kabateck said of Fraysse, describing him as tenacious. “In the world we live in today, you get an awful lot of lawyers who are assembly line lawyers. ... They run through their cases and rattle off what’s going on in their cases in very cursory fashion because it’s just an assembly line. But Tom is just not like that. He really knows his stuff.”

Defense attorney Frank J. Revere, who has opposed Knox Ricksen and faced Fraysse in trial, said the firm has always been a very civil shop.

“Despite the fact we had difficult cases, meaning we were really at odds and there was a lot of money involved, they always conducted themselves professionally,” Revere said. “And I’ve always been able to work well with them.”

Revere also spoke highly of Fraysse’s ability in the courtroom.

“I’ve had many, many jury trials against many, many good lawyers, and I would consider him right up there with all of them,” Revere said. “He’s capable. He comes very prepared. He argues vigorously.”

Fraysse and Sokolove were both quick to insist they truly love their jobs, thanks not only to the constantly evolving nature of the intellectual challenge.

“It feels good to be on the right side, which isn’t always something that’s possible in the practice of law,” Sokolove said, referring to the spinal device case as an example. “That’s certainly one for the books — putting phony counterfeit implanted spinal hardware in people’s bodies and profiting off of it. I’m glad to be on the right side of that one for sure.” ■