

Daily Journal

November 3, 2021

TOP HEALTH CARE LAWYERS 2021

THOMAS E. FRAYSSE

Frayse, who started with Knox Ricksen in 1982, is now the managing partner of the civil litigation firm. It specializes in complex fraud and whistleblower actions on behalf of health care insurers, self-insured groups, casualty and workers' compensation carriers and those who expose health care industry wrongdoing.

Throughout his career, he has litigated more than 2,000 matters, represented parties and witnesses in over 100 trials and handled hundreds of arbitrations and mediations.

In August, during jury selection, he settled for \$51 million a long-running *qui tam* case in which two unlicensed individuals operated sham law firms and chiropractic offices that presented personal injury claims to insurance companies so they could pocket the money. People of the State of California *ex rel. Allstate Insurance Co. v. Park*, BC541477 (L.A. Super. Ct., filed April 3, 2014).

"The Park case came on the heels of the appellate decision we obtained in *People ex rel. Allstate v. Suh* (37 Cal. App. 5th 253) in which the court upheld a jury verdict against two unlicensed persons masquerading as lawyers under California Insurance Code section 1871.7," Fraysse said in an email. That case extended the definition of fraud for establishing liability under section 1871.7 by hold-

ing that all that is required is that the claims are false in some respect, such as by holding out a bogus law firm as legitimate.

"Thus, in addition to the usual forms of fraud—billing and clinical—Park and Suh create a third bucket of fraud, structural fraud," Fraysse said.

The Park case settled, he added, "as we were trying to pick a jury amidst the Delta variant surge, which was extremely challenging for all involved due to prospective jurors not showing up for jury duty. It appeared that even if we got a jury, COVID could cause a mistrial midway through what was expected to be a four-week trial."

Frayse said the pandemic has amped up fraud in the health care marketplace chiefly through the lifting of regulatory restrictions on telemedicine, a move designed to promote remote access to needed care during a time when doctor visits were risky.

"Telemedicine is a great thing, but it is also an opportunity for medical predators, leading to unintended consequences when regulations were relaxed," he said.

"You see fraud schemes that pre-existed getting bolder, such as those targeting payers like Medicare, where there are losses literally in the billions of dollars," Fraysse continued. "Now they're also targeting union health and welfare trust funds on a stagger-



THOMAS E. FRAYSSE
KNOX RICKSEN LLP
WALNUT CREEK
LOS ANGELES
LITIGATION

ing scale. Regulation relaxation has accelerated all this."

The bottom line is more than financial loss. "These audacious schemes show a conscious disregard of the health and safety of patients," Fraysse said.

— John Roemer