

## Jonathan Radke

Partner

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As a former Emergency Medical Technician and Ski Patroller, Jonathan has a keen interest in health care and tenacious drive to successfully navigate his clients through the most challenging circumstances. Jonathan has spent more than a decade representing health care providers in both state and federal courts as well as arbitration, and concentrates his practice on health care fraud and abuse, false claim and complex business litigation. Jonathan's clients have ranged from individual physicians to hospitals, physician medical groups, substance abuse treatment facilities, clinical laboratories, IDTFs, billing companies, and DME suppliers.

### **Focus on Fraud and Abuse Litigation**

Jonathan focuses his practice on advising and representing health care providers who have been subjected to government investigations or sued by whistleblowers in connection with the submission of false claims in violation of the State and Federal False Claims Act as well as California's Insurance Frauds Prevention Act. In particular, his niche is concentrated on cases involving lack of medical necessity and standard of care violations, including for example, histocompatibility testing for transplant patients, hospital admission determinations, and retinal tests to treat and diagnose macular degeneration.

### **A Broad Range of Litigation and Health Care Regulatory Experience**

Jonathan has successfully represented clients in various civil litigation matters, including contract and reimbursement disputes, fraud, civil investigations, and administrative appeals. His experience has ranged from representing corporate clients involved in commercial litigation to defending against product liability cases and prosecuting criminal trials.

Jonathan also routinely advises clients on health care regulatory and compliance issues, including Medicare and Medicaid reimbursement, civil investigations and insurance audits, voluntary disclosure of possible government overpayments, and compliance with the anti-kickback and Stark laws.

### **Before Joining Nelson Hardiman**

Jonathan's passion for healthcare began early as a healthcare provider himself. During his graduate studies in both law and public health, Jonathan worked for the Centers for Disease Control and Prevention and the U.S. Department of Health and Human Services, as well as medical-legal partnerships affiliated with Children's Hospital of Atlanta and Los Angeles.

Prior to joining Nelson Hardiman, Jonathan started his legal career at a firm dedicated solely to the representation of healthcare providers and suppliers. Jonathan also worked for the Los Angeles City Attorney's office where he prosecuted criminal cases.

### **Accolades**

Jonathan was recognized by Super Lawyers Magazine as Southern California Rising Star (2017-2018) and Super

Lawyer (2020).

**Life Outside the Firm**

Jonathan loves to travel and spend time outdoors. On sunny California weekends, he can be found cycling, camping and hiking with his wife and children.

## Practice Areas

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- [Government Investigations](#)
- [Litigation](#)
- [Regulatory Compliance](#)
- [Transactions](#)

## Credentials

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### Education

Emory University School of Law, J.D.

Emory University Rollins School of Public Health, M.P.H.

University of California San Diego, B.A.

### Admissions

State Bar of California

### Affiliations

American Bar Association

Los Angeles County Bar Association Health Law Section

American Health Lawyers Association

## Experience

- **False Claims Act** Successfully prevailed in a False Claims Act case decisively resolved on summary judgment for our client, a large Southern California hospital. Two whistleblowers from a rival laboratory alleged that the hospital's kidney transplant program had submitted millions of dollars of Medicare claims for duplicative and medically unnecessary histocompatibility testing for transplant candidates. After extensive discovery and numerous expert depositions, we moved for summary judgment on the ground that evidence of a good faith dispute about evolving testing standards cannot form the basis of a FCA case. The district court entered judgment in our client's favor, holding that no jury could reasonably find that the hospital's testing claims were false.
- **False Claims Act** Obtained a complete dismissal with prejudice of a federal False Claim Act lawsuit brought against a hospital client, in which a former patient of the hospital filed as a Relator on behalf of the United States alleging that the hospital defrauded the Medicare program by billing its facility charge when patients visited their surgeons for follow-up care. We moved for summary judgment on the ground that there was no merit to the claim because the visits occurred in outpatient clinics entitled to bill a facility charge, resulting in the dismissal of Relator's \$40M lawsuit in our client's favor.
- **Insurance Frauds Prevention Act** Obtained a complete dismissal of a whistleblower complaint brought against a substance abuse treatment center and laboratory alleging violations of California's Insurance Frauds Prevention Act by billing private insurers for medically unnecessary drug testing. Following decisive victories during pre-trial litigation and discovery, the plaintiff-patient dismissed her case with prejudice.
- **Healthcare Fraud** Successfully represented a physician facing federal civil racketeering claims in a federal lawsuit involving a workers' compensation conspiracy including a large Southern California hospital and numerous physicians, marketers, pharmacies and suppliers. The case ultimately settled favorably.
- **Reimbursement Dispute** Represented a large hospital system in federal lawsuit against CMS seeking to enforce a settlement agreement with CMS resolving the hospitals' Medicare short stay admission claims. The case was ultimately settled with a favorable result for the hospital.
- **Hospital Litigation** In a matter of first impression in California, we obtained a permanent injunction against a hospital patient who had refused to leave the hospital despite lacking medical necessity.
- **Hospital Litigation** We were able to persuade a patient, who had refused to be discharged for 18 months and refused to pay the hospital, to agree to be discharged. Then we filed a lawsuit against the patient and won a three-week trial recovering the monies owed to our hospital client.