

Hooper Lundy Adds DOJ Health Fraud Deputy In Boston

By **Jeff Overley**

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Hooper Lundy & Bookman PC has brought aboard a high-ranking health fraud lawyer from the U.S. attorney's office in Massachusetts, giving the firm an insider's view of a preeminent district for health fraud cases.

David S. Schumacher joined Hooper Lundy's newly launched Boston office last week, fresh off an eight-year stint in the local U.S. attorney's office, where he was deputy chief of the health fraud unit. The unit has a high profile within the U.S. Department of Justice because Massachusetts is a hub of elite medical centers, prominent drugmakers and major medical device manufacturers.



David Schumacher

In an interview on Wednesday, Schumacher said that False Claims Act enforcement remains robust in the district, although it has to some extent migrated away from major drugmakers that have beefed up their compliance after years of gigantic FCA punishments.

"Certainly the whistleblower False Claims Act suits are just as strong as ever. The office continues to get a number of very strong lawsuits alleging fraud," Schumacher said. "I think you're not seeing as many suits against the largest pharma companies. But you're seeing plenty against mid-level companies, device companies, hospital systems, laboratories, home health care companies."

Allegations vary, but Schumacher said that potentially improper financial arrangements have recently been a common theme.

"You're seeing a lot of activity around kickbacks," he said. "I'm not sure why that is, but there are many, many cases alleging all manner of kickbacks."

As one example, Schumacher described increased interest in examining charities that assist patients with the costs of pricey prescription drugs. Those charities usually focus on specific diseases and receive heavy financial support from Big Pharma, raising concerns about improper steering of patients toward specific drugs covered by government health care programs.

Government lawyers are "looking into whether those are legitimate or if they are kickback arrangements," said Schumacher, who practiced at Goodwin Procter LLP before joining the U.S. attorney's office.

During his tenure, Schumacher participated in a criminal kickbacks case targeting Warner Chilcott and certain employees. A former company president ended up being acquitted, but the company paid \$125 million and pled guilty to a felony, and other employees admitted criminal wrongdoing.

For clients dealing with the U.S. attorney's office in Massachusetts, Schumacher said he expects his familiarity to be a benefit.

"I worked closely with these guys for eight years ... and so I would hope that if I'm representing someone on the other side, that I'll get a fair hearing before them," he said. "And I think there's a good chance that my call will get returned and they'll meet with me. They're not going to cut me any special favors ... but they will know that I'm going to be straight with them."

Schumacher said his move to Hooper Lundy — a health law boutique with roughly 65 members — was unrelated to the change of presidential administrations. The change led U.S. Attorney Carmen Ortiz to resign as head of the Massachusetts office, as is customary when control of the White House switches parties. Schumacher predicted that enforcement won't look much different under the Trump administration, apart from some slight possible shifts in enforcement priorities.

"I'd be surprised if the work of the office changed a tremendous amount," Schumacher said.

It's not clear who might take over for Ortiz. In November, the Boston Globe reported that possible replacements might include Michael K. Loucks of Skadden Arps Slate Meagher & Flom LLP, Roberto M. Braceras of Goodwin Procter, Brian T. Kelly of Nixon Peabody LLP or George W. Vien of Donnelly Conroy & Gelhaar LLP.

"It's a great job, and it would be an honor to be considered," Kelly told Law360 by email on Wednesday.

The other three attorneys couldn't immediately be reached for comment.

Hooper Lundy's new Boston office has two other lawyers. It joins the firm's existing offices in Los Angeles, San Diego, San Francisco and Washington, D.C.

--Editing by Orlando Lorenzo.