

JSH ATTORNEYS GEORGIA STATON & ELIZABETH GILBERT OBTAIN DEFENSE VERDICT FOR YAVAPAI COMMUNITY COLLEGE IN \$70+ MILLION FALSE CLAIMS ACT CASE

August 4, 2021 | Case Summaries



Hamilton, Dan v. Yavapai Community College, et al.

United States District Court, District of Arizona | Judge G. Murray Snow

June 28, 2021

JSH Partners: [Georgia Staton](#) & [Elizabeth Gilbert](#)

JSH attorneys Georgia Staton and Elizabeth Gilbert obtained a defense verdict in a False Claims Act (“FCA”) case brought against Yavapai Community College (“College”) alleging damages in excess of \$70 million. This case arose in 2009 when the College – a two-year community college in northern Arizona – began working with the Veteran’s Administration (“VA”) to offer an aviation degree program. With tens of thousands of troops returning home in 2008 and 2009, the College’s aviation degree program was designed to provide veterans and civilians alike an opportunity to train for well-paying jobs.

In January 2010, the College began offering an associate’s degree for those training to be helicopter pilots. It contracted with Guidance Academy (“GA”) in Prescott, Arizona to provide the training. Later, the College expanded its aviation program to include training to fly airplanes provided by NorthAire Aviation (“NA”). The College submitted the veterans’ information to the VA, which approved and paid the veterans’ tuition and flight fees. In turn, the College paid GA and NA to conduct the flight training.

In June 2011, the VA informed the College that it needed to comply with federal regulation 4201, also known as the “85/15” ratio, which meant no more than 85% of the students in the program could be veterans. The College immediately set about to increase the number of civilian students and came into compliance with the 85/15 ratio. In September 2011, VA Compliance Specialists conducted a thorough audit and found the College to be compliant with the 85/15 ratio.

To help manage their growing aviation program, the College hired Plaintiff Dan Hamilton in September 2011 to serve as Director of Aviation. Hamilton was a veteran and flew fighter jets in the military. However, Hamilton quickly became difficult to work with, asked for special treatment, and pushed his work to other College employees.

In May 2012, Hamilton was terminated for poor job performance, inability to follow instructions, and making unfounded allegations. After he was terminated, Hamilton turned his sights on the College and contacted the VA hotline claiming the College, GA and NA were defrauding the government. The VA quickly launched an in-depth audit of the College’s flight programs and on September 14, 2012, the VA found that the College was in compliance with the 85/15 ratio in both the helicopter and airplane programs. And the VA’s audits in 2013, 2014, and 2015 also found the College to be in compliance.

The College saw an opportunity to expand its aviation program. The new program, Aviation Technology (“AVT”), included all areas related to flight: helicopter, airplane, operations and management of airports, and unmanned aircrafts (drones). The VA approved the College’s AVT degree program in fall 2013.

The College had a long history of working with school districts to provide high school students the opportunity to gain college credit while still enrolled in high school. The Mountain Institute Joint Technical Education District ("JTED") came to the College and proposed having its students enroll in the AVT degree program. The JTED students first enrolled in the AVT degree program beginning in fall 2013. The College counted the JTED students on the 15% side of the 85/15 ratio and confirmed with the VA that they were correctly classifying the JTED students. Later, the VA conducted another audit of Yavapai's pilot programs and again found the college was compliant with the 85/15 ratio.

Hamilton, still disgruntled from his May 2012 termination, retained lawyer Rich Harris. A decade-long vendetta against Yavapai began. Hamilton and Harris spoke with a reporter at the *Los Angeles Times*, which resulted in an article criticizing the VA's oversight of aviation programs across the country. On March 23, 2015, just eight days after the article was published, the VA changed its method of calculating the 85/15 ratio and concluded that the College was not in compliance and immediately suspended all new enrollments in the AVT degree program.

During the three-week trial, the College produced evidence of the College's compliance with the 85/15 ratio, including the VA's acceptance and verification of the College's calculations over the course of four years. After deliberating for five hours, the jury rejected all of plaintiff's claims and found unanimously in favor of Yavapai Community College, Guidance Academy, and NorthAire Aviation.

[Georgia Staton](#) has more than 46 years of experience representing governmental entities, including state, counties and cities, as well as school districts and privately-held corporations. She is committed to defending clients on issues involving governmental liability, employment law, personal injury and civil rights. Georgia has tried more than 75 cases to verdict in state and federal court in matters involving wrongful death and claims brought under the Americans with Disabilities Act, Family and Medical Leave Act, Title VII discrimination and sexual harassment claims and retaliation, as well as false arrest and excessive force allegations against law enforcement including pursuit cases and SWAT actions. Georgia is a Certified Specialist in Personal Injury and Wrongful Death.

gstaton@jshfirm.com | 602.263.1752 | jshfirm.com/gstaton

[Elizabeth Gilbert](#) has tried over 75 jury trials in State and Federal Court in cases involving criminal and civil matters throughout her 25-year. She defends health professionals, and health care entities, including hospitals, nursing homes, assisted living facilities, and group homes. In addition, she defends public entities against civil rights claims, such as excessive force claims, and discrimination claims made pursuant to both state and federal law, including sexual harassment, age discrimination, gender discrimination, retaliation, and wrongful termination. In her first 12 years of practice, Liz worked for the Maricopa County Attorney's Office where she prosecuted violent criminals, including large, high-profile gang/criminal syndicate cases involving joint state and federal task forces.

egilbert@jshfirm.com | 602.263.1710 | jshfirm.com/egilbert