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TOP 100 • 2020

TRIALS

Jennifer L. Keller

Keller represents plaintiffs and defendants in high stakes commercial litigation and white collar cases. She is a 2018 inductee into the California Lawyers Association Trial Lawyers Hall of Fame.

As the Covid-19 crisis arrived, state and federal officials announced a plan to turn a Costa Mesa facility the state had recently condemned as unfit for human habitation into an 80-patient coronavirus treatment center. The city retained Keller to oppose the plan. She won a temporary restraining order in federal court and the plan was abandoned. *City of Costa Mesa v. United States*, 8:20-cv-00368 (C.D. Cal., filed Feb. 21, 2020).

"We weren't saying NIMBY to housing people with covid," Keller explained. "The city was blindsided here by people with no plan. They refused to provide us any information. They wanted to put people in Fairview [Developmental Center], which needed \$60 million in repairs."

Keller explained to U.S. District Judge Josephine L. Staton of Santa Ana that there were no plans to ensure adequate resourcing, no plans for testing or provision of personal protective equipment for first responders or health care workers and inadequate planning for preventing community

transmission. The judge saw it her way.

"The mayor and the city council proved to be forward-looking here," Keller said. "The case got us a seat at the table." Two months after the granting of the TRO, the state and federal authorities got together with city officials to jointly reconsider using the Fairview facility. "The city said fine, as long as you plan it with our emergency management people," Keller said.

Keller said she and her firm took on an unfamiliar challenge when retained by tech entrepreneur Henry T. Nicholas III, the co-founder of Broadcom Corp., to help with a major tax case. The client's investments in a fund he established resulted in tens of millions of dollars in losses. When Nicholas tried to claim these losses on his tax returns, the IRS denied the deductions. He filed a complaint under the Tax Equity and Fiscal Responsibility Act. *Broadwood Investment Fund LLC v. United States*, 8:08-cv-00295 (C.D. Cal., filed March 18, 2008).

"We battled the government for three years," Keller said. "On the eve of trial and facing multiple potentially dispositive motions, the government folded and allowed Dr. Nicholas to claim \$40 million in tax losses." The case was dismissed in early 2019.

"We were proud of that," Keller said. "It



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was largely the brainchild of my partner, Chase Scolnick. There were claims of loss and destruction of evidence by the government, and they were staring at sanctions. None of us was experienced in tax matters, but our firm can do any kind of case. If it can go to trial, we can do it and do it well."

— John Roemer