

Jason S. Cowart

Partner

Jason S. Cowart has a broad litigation practice, with a primary focus representing health care providers and their patients in high-stakes disputes with health insurance companies, ensuring that patients are not wrongfully denied treatment and providers are appropriately compensated.

By developing novel legal theories clarifying the rights and remedies provided by ERISA, the Employee Retirement Income Security Act, Jason's cutting edge work has received national attention for dramatically expanding the ability of providers and patients to challenge insurance company claim determinations.

Jason is currently working to redress a number of insurance company practices that exacerbate the financial pressures providers and patients face. These include improper denials due to overly restrictive internal coverage guidelines and coordination of benefit protocols, overbroad application of experimental or investigational exclusions, claim bundling and down-coding, and discrimination against mental health patients.

Jason's unique expertise in uncovering and addressing health insurance company misconduct draws upon his extensive experience in complex securities fraud, derivative, and antitrust matters.

Professional leadership

- Former President-Elect and Secretary, National Association of Shareholder and Consumer Attorneys

Recognitions

- Super Lawyers (New York)

Bar admissions

- District of Columbia
- New York

Court admissions

- U.S. Supreme Court
- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Seventh Circuit



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Practice focus

- Business Litigation
- Health Care
- Insurance
- Investigations
- Plaintiffs and Class Actions
- Securities and Commodities Litigation

Education

- Northwestern University Law School, J.D., *cum laude*, 1999
 - Articles Editor, *Journal of International Law and Business*
 - Winner and Best Speaker, Julius H. Minor Moot Court Competition
- University of Michigan, B.A., 1993



- U.S. Court of Appeals, Eighth Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. District Court, District of Colorado
- U.S. District Court, District of Columbia
- U.S. District Court, Eastern District of New York
- U.S. District Court, Southern District of New York
- U.S. District Court, Western District of Michigan

Clerkships

- Hon. Richard Enslin, U.S. District Court, Western District of Michigan

Representative matters

- Represented a class of New Jersey chiropractors in a case that settled for \$33 million. At issue was the insurer's refusal to pay chiropractors separately for certain procedures performed on the same day as spinal manipulation, on the theory that payment for those procedures was "bundled" into the payment for spinal manipulation.
- Represented mental health providers and their patients in one of the first cases in the country seeking to enforce the Mental Health Parity and Addiction Equity Act of 2008. At issue was whether United Healthcare, a third party administrator, could be held liable under ERISA for applying allegedly discriminatory policies and procedures when making mental health and substance abuse-related claim determinations. After the United States Court of Appeals for the Second Circuit agreed with Jason that United could be held liable under these circumstances, the case settled. Jason is currently litigating several other cases against insurers (including United and Aetna) challenging the legality of the internal guidelines they use when adjudicating mental health and substance abuse claims.
- Represents health care providers against several insurers, including United Healthcare and Aetna, in ERISA actions seeking notice and appeal rights in connection with repayment demands and challenging the legality of cross-plan offsets. In one such action against United, a class of out-of-network providers has been certified. These cases raise numerous issues of first impression including those related to out-of-network providers' ERISA rights, their standing to assert such rights, and the scope of available judicial remedies.
- Represents health care providers challenging the claim by insurance companies that the providers have not collected their patients' full co-payment and co-insurance obligation and that, therefore, the insurer has no obligation to pay related health insurance claims.
- Represents patients and providers in litigation brought against various third party administrators challenging the



use of plan assets and health spending accounts to pay administrative fees and expenses.

- Represents patients in litigation against insurers challenging denial of coverage for transcranial magnetic stimulation to treat depression on the ground that it is experimental or investigational.
- Representing a putative class of patients in an action against a major insurance company for allegedly discriminating against out-of-network psychiatrists and other mental health providers for mental health services. Plaintiffs allege that the insurer's policy of reimbursing mental health providers less than non-mental health specialists for providing the same services violates ERISA.
- Represented numerous institutional investors in securities fraud cases concerning statements that BP made about its purported safety reforms prior to the 2010 Deepwater Horizon oil rig explosion. In these cases, Jason played the lead role in defeating BP's motion to dismiss, convincing the court that the Supreme Court's Morrison decision (which prevents investors from pursuing federal securities fraud claims based on foreign securities transactions) did not defeat his clients' common law claims.
- Represented a Pfizer shareholder in derivative litigation brought against the Pfizer board of directors alleging that the board breached its fiduciary duties by approving the company's illegal off-label marketing campaign. The settlement not only required the defendants to forfeit \$75 million (one of the largest derivative settlements in history), it also required implementation of corporate governance reforms designed to ensure compliance with drug marketing laws.
- Represented an institutional investor in a securities fraud class action against Citigroup, its CEO Sanford Weil, and telecommunications analyst Jack Grubman. The case concerned Mr. Grubman's decision in 1999 to change his recommendation on AT&T stock to a "buy" and allegations that this opinion was not honestly believed and was actually designed to advance his personal interests and those of Mr. Weil. Although similar claims against stock analysts were dismissed, Jason deconstructed Mr. Grubman's buy rating rationale and documented facts indicating that Mr. Grubman was aware of substantive problems at AT&T that were concealed in his rating upgrade. The case settled for almost \$75 million.
- Represented the lead plaintiffs in a securities fraud class action against the American Italian Pasta Company and its auditor, Ernst & Young. The case, which involved allegations of significant accounting fraud, resulted in a \$28.5 million recovery for his clients.
- Represented a class of investors in Force Protection, a military contractor, alleging securities fraud claims. The case, which concerned accounting fraud as well as allegations that the defendants led investors to be overly



optimistic about the company's ability to land new government contracts, settled for \$24 million.

