

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 work has dramatically expanded the ability of providers and patients to successfully challenge insurance company claim determinations.

Jason is currently working to redress a number of widespread insurance company practices that exacerbate the financial pressures providers and patients face. These include improper denials due to overly restrictive internal coverage guidelines, overbroad application of experimental or investigational exclusions, violations of the ERISA claims regulation, and discrimination against mental health patients.

Jason won a landmark trial victory in 2017 in a case challenging United Behavioral Health's mental health and substance use level of care coverage guidelines. Former Congressman Patrick Kennedy, the sponsor of the federal mental health parity act, hailed the trial victory as the "Brown v. Board of Education for the mental health movement," and CNN identified it as "one of the most important and most thorough rulings ever issued against an insurance company, at the federal level, on mental health issues." Following an appeal, in 2023 the case was remanded by the U.S. Court of Appeals for the Ninth Circuit back to the district court for further proceedings.

Jason's work 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

- Chambers USA: America's Leading Lawyers for Business, ERISA Litigation: Mainly Plaintiffs (Nationwide)



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Practice focus

- Commercial Health Insurance Disputes
- Business Litigation
- Health Care
- Insurance
- Investigations
- Plaintiffs and Class Actions
- Securities and Commodities Litigation
- Pro Bono

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



ZUCKERMAN
SPAEDER

- The Best Lawyers in America, Health Care Law
- Super Lawyers (New York)
- The National Law Journal, Plaintiffs' Lawyer Trailblazer, 2021

- University of Michigan, B.A., 1993

Languages

Bar admissions

- District of Columbia
- New York

Court admissions

- U.S. Supreme Court
- U.S. Court of Appeals, First Circuit
- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Seventh Circuit
- U.S. Court of Appeals, Eighth Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. District Court, District of Columbia
- U.S. District Court, Western District of Michigan
- U.S. District Court, Eastern District of New York
- U.S. District Court, Southern District of New York

Clerkships

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

Representative matters

- Represents United insureds in a case challenging the legality of the internal guidelines United uses when adjudicating mental health and substance abuse claims. Following a highly publicized trial in 2017, the district court ruled that United breached its fiduciary duties when it developed its guidelines and that its denials pursuant to those guidelines were wrongful. In November 2020, the Court ruled on remedies, providing plaintiffs with robust, multi-faceted relief. Among other things, the Court ordered UBH to reprocess all of the claims in



question, reform its coverage criteria going forward for a period of 10 years, and improve employee training. The Court also appointed a Special Master to oversee the reprocessing and reforms. Following an appeal, in 2023 the case was remanded by the U.S. Court of Appeals for the Ninth Circuit back to the district court for further proceedings.

- Represented health care providers challenging the legality of “cross-plan offsets,” pursuant to which a claims administrator for one ERISA plan sends benefits owed by that plan to another plan in order to recover a prior alleged overpayment made by that second plan. In one such action against United, the district court granted summary judgment in favor of the providers in 2017 and the Eighth Circuit Court of Appeals affirmed that decision in 2019.
- Represented 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 patents 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.
- Represents health care providers seeking ERISA notice and appeal rights in connection with repayment demands.
- Represents health care providers facing allegations by insurance companies that the providers have not collected their patients’ full co-payment and co-insurance obligation and that, therefore, the providers’ engaged in fraud and 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.



- Represented 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.
- Represented 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 and the Federal Parity Act.

