



# Andrew N. Goldfarb

## Partner

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## Practice Focus

- Business Litigation
- Commercial Health Insurance Disputes
- False Claims Act
- Food and Drug
- Health Care
- Insurance
- Investigations
- Plaintiffs and Class Actions
- Pro Bono

## Education

- Georgetown University Law Center, J.D., 1995
- Harvard University, A.B., *magna cum laude*, 1990

Andrew N. Goldfarb is an accomplished litigator who focuses on plaintiff- and defense-side complex civil litigation. As one of the leaders of the firm's nationally recognized Commercial Health Insurance Disputes practice, he has extensive experience representing patients and providers in actions against health insurance companies over coverage for behavioral health treatments and reimbursement policies under ERISA, Mental Health Parity laws, and the Affordable Care Act.

Andrew regularly represents individuals and businesses in a range of complex business matters including breach of contract disputes and misappropriation of trade secrets, among others. He also counsels biopharmaceutical and medical device companies on a wide range of matters, including drug promotional and advertising activities, FDA warning letters, medical device classifications, health-related mobile applications, intellectual property rights, and HIPAA compliance obligations.

Andrew is co-editor of *InsightZS*, a legal blog dedicated to thoughtful discourse on emerging litigation and investigations issues of the day.

Prior to joining Zuckerman Spaeder, Andrew was a trial attorney for six years in the U.S. Department of Justice, where he prosecuted the United States's civil RICO action against the tobacco industry that resulted in a 1,650-page opinion finding the defendants liable for RICO violations.

## Experience

- Represents patients in two putative class actions against major health insurance companies alleging violation of ERISA health plans and breaches of ERISA

fiduciary duties arising from the insurers' underpayment of plan-promised benefits and failure to protect plan members from their healthcare providers' full charges, and where the insurers earned billions of dollars in additional fees as a result of the underpayments.

- Defends a French company and its CEO in a contract and fraud action arising from alleged false representations and warranties in connection with the sale of two manufacturing subsidiaries, and in a parallel DOJ investigation concerning product-testing certifications.
- Represents the independent nonprofit United States Institute of Peace (USIP), six USIP directors, and USIP's acting president in challenging the individual plaintiffs' unlawful removal by the government. In May 2025, the U.S. District Court for the District of Columbia entered summary judgment for the USIP plaintiffs.
- Represents over 1,200 survivors of child sex abuse in the Boy Scouts of America in their pursuit of compensation through the BSA bankruptcy, including earning settlement recommendations for 7 clients totaling \$110M after one-day evidentiary hearings.
- Represents a leading tobacco control organization in regulatory and litigation matters arising under the Tobacco Control Act (TCA), including representing a coalition of health organizations as amici in challenges to FDA's "deeming rule" concerning electronic cigarettes; and counseling on proposed and final rules on issues arising under the TCA, including tobacco product applications, warning labels, and substantial equivalence.
- Represents individuals, including former employees of a multinational technology company, in connection with document and deposition subpoenas by federal agencies, state Attorneys General, and private parties.
- Represented a genetic testing company in an arbitration proceeding against a major health insurance carrier for failure to pay for standard-of-care genetic tests, earning total victory after a multiday hearing.
- Represented patients in class action lawsuits against major insurance companies for their failure to cover transcranial magnetic stimulation (TMS), an FDA-approved treatment for depression. The plaintiffs alleged breaches of fiduciary duties and wrongful denial of benefits under the Employee Retirement Income Security Act (ERISA). Obtained court-approved class settlements of \$6.2 million and \$2.75 million.
- Obtained rulings after trial from the Delaware Chancery Court in two separate cases requiring our clients' former employers to advance defense costs incurred in connection with government (SEC & DOJ) prosecution and enforcement proceedings.
- Represented creditors' committees and post-confirmation trustees in contract, fraudulent conveyance, and accounting malpractice cases, including serving as special litigation counsel for the official committee of unsecured creditors of the Tribune Company in the investigation of the \$10 billion failed leveraged buyout (LBO) and the commencement and initial prosecution of three lawsuits against major lenders for fraudulent conveyance; directors and officers, former Tribune shareholders, and others for breaches of fiduciary duty and fraudulent conveyance; and financial advisors to Tribune for malpractice.
- Represented health care providers in actions against a major health insurance company alleging ERISA violations for "cross-plan offsetting," whereby the insurer withheld benefit payments owed by a health plan to the provider for covered services and used those benefits to reimburse a different health plan for alleged prior overpayments to the same provider. The cases were resolved on a non-class basis.
- Filed comments to FDA on behalf of a pharmaceutical and medical device company concerning the scope of orphan drug exclusivity. The company responded to an FDA solicitation in the wake of a district court decision requiring FDA to award orphan drug exclusivity to a designated orphan drug, even though

the drug had not shown “clinical superiority” to a prior orphan drug with the same active ingredient for the same use. It argued that orphan exclusivity should apply only to ANDAs referencing the new orphan drug but should not keep ANDAs referencing the prior orphan drug from receiving marketing approval. FDA appealed the district court decision, and the D.C. Court of Appeals affirmed the decision in March 2020.

- Represented a generic drug manufacturer in a challenge to the FDA’s approval of its drug under the Hatch-Waxman Amendments to the Food, Drug, and Cosmetic Act (FDCA). The action for a preliminary injunction was brought against the FDA by a competitor who claimed that the client had forfeited its 180-day generic exclusivity under the FDCA, and Zuckerman’s client intervened. In the first case addressing the generic exclusivity forfeiture provisions of the FDCA, the court refused to enjoin FDA from approving the drug, allowing Zuckerman Spaeder’s client to continue marketing its drug.
- Represented a putative class of patients in an ERISA action against a major insurance company for allegedly discriminating against out-of-network psychiatrists and other mental health providers in the reimbursement for mental health services. Obtained a court-approved class settlement providing injunctive and monetary relief.
- Defending an electrical switch manufacturer against tort, contract, and fraudulent conveyance claims in parallel state and federal bankruptcy court actions arising out of a purchase of assets from a company found responsible for environmental contamination in Long Island, New York.
- Conducted an independent internal investigation for a major international pharmaceutical company, after the company failed to disclose to the FDA a preliminary report of a drug safety study before an important advisory committee meeting. The drug had been approved by the FDA to reduce bleeding in certain cardiac surgery patients. After conducting dozens of interviews of all of the key participants in the events at issue, in the United States and Germany, and conducting extensive document discovery, Zuckerman Spaeder prepared a report detailing the critical events and potential causes of the company’s failure to disclose.

## Bar Admissions

- California
- District of Columbia
- New York

## Court admissions

- U.S. Court of Appeals, District of Columbia Circuit
- U.S. Court of Appeals, Ninth Circuit
- U.S. District Court, Central District of California
- U.S. District Court, District of Colorado
- U.S. District Court, District of Columbia
- U.S. District Court, Northern District of California
- U.S. Supreme Court

## Government Service

- U.S. Department of Justice
  - Trial Attorney

## Community Involvement

- Board of Directors, Washington Tennis and Education Foundation
- Former Chairman of the Board, Teens Run DC (2015-2024)
- Former Co-Chair of Social Action Committee, Temple Sinai, Washington, DC (2009-2011)

## Recognitions

- The National Law Journal, Class Action Litigation Trailblazer, 2023
- The National Law Journal, Plaintiffs' Lawyer Trailblazer, 2022
- DC Courts, Capital Pro Bono Honor Roll, 2018
- Benchmark Litigation, Future Star (Washington, DC)