



Andy G. Jubinsky

ASSOCIATE

CONTACT

Phone

(214) 939-2033

Email

andy.jubinsky@figdav.com

AREAS OF PRACTICE

BUSINESS LITIGATION

INSURANCE LITIGATION

CLASS ACTION

LABOR + EMPLOYMENT



Practice Overview

Andy is one of the founding attorneys of Figari + Davenport. He has tried over 70 cases in federal and state courts and arbitrations, including business and insurance cases, and has been involved in over 300 reported opinions. Andy was recognized by the Dallas Business Journal as one of the 10 top litigators in the Dallas-Fort Worth area, has been named one of America's Top 100 Civil Defense Litigators, and has been selected by his peers in The Best Lawyers in America in 5 practices areas, including Bet-the-Company Litigation.

Over the past 30 years, Andy has amassed extensive experience in complex health, life, and disability insurance, financial services matters, and healthcare payor/provider disputes. As this area of the law has become more sophisticated and highly regulated, Andy's continuing involvement, knowledge, and industry-wide reputation has helped to establish Figari + Davenport as a recognized leader in high stakes insurance litigation. Andy represents clients on a national, regional, and state-wide level in state and federal courts, including class action and multi-district litigation, as well as arbitrations before the AAA and AHLA tribunals.

Andy also represents clients in business and commercial litigation, non-competition, trade secret and employment lawsuits, ERISA litigation, agent disputes, franchise disputes, premises liability and personal injuries, real estate disputes, and consumer product litigation. Andy is accessible to his clients and responsive to their varying needs, and is always cognizant of costs and maintaining efficiency, which is much appreciated by his longstanding client base.

Honors + Highlights

- Listed in The Best Lawyers in America under Bet-the-Company Litigation, 2020-2025
- Listed in The Best Lawyers in America under Insurance Law, 2008-2027
- Listed in The Best Lawyers in America under Commercial Litigation, 2009-2027
- Listed in The Best Lawyers in America under ERISA Litigation, 2012-2027
- Listed in The Best Lawyers in America under Real Estate Litigation, 2012-2027
- Listed in 2007, 2009 Corporate Counsel Almanac as a "Top Lawyer"
- Named one of the ten "Top Litigators in the Metroplex" by Dallas Business Journal, 2003
- Significant rulings in the past decade as lead counsel include: Caris MPI, Inc. v. UnitedHealthcare, Inc., Case No. 3:21-cv-3101-X, 2023 WL 4768187 (N.D. Tex. July 26, 2023) (removal upheld based on federal-officer jurisdiction and motion to dismiss granted for failure to exhaust administrative remedies); Trinity Home Dialysis, Inc. v. Wellmed Networks, Inc., Case No. 22-10414, 2023 WL 2573914 (5th Cir.



2023) (removal upheld based on federal-officer jurisdiction and motion to dismiss granted for failure to exhaust administrative remedies); *Jayne v. Health Care Service Corp. d/b/a Blue Cross and Blue Shield of Texas*, Case No. 622CV00564ADAJCM, 2023 WL 2544344 (W.D. Tex. Mar. 16, 2023) (dismissal of bad faith and Texas Insurance Code claims based on limitations); *Seger v. Branda Financial Services and National Life Ins. Co.*, Case No. 01-21-00224-CV, 2022 WL 17981559 (Tex. App. – Houston [1st Dist.] 2023, no pet.) (appeal upheld dismissal of case on Rule 91a motion based on limitations); *Fedesna v. Canada Life Ins. Co.*, Case No. 21-50884, 2022 WL 2981422 (5th Cir. 2022) (affirming summary judgment that insured not totally disabled); *Krawczynszyn v. Columbian Life Ins. Co.*, Case No. 1:21-cv-0085, 2022 WL 1689245 (N.D. Ohio May 26, 2022); *American Heritage Life Ins. Co. v. Johnston*, Case No. 21-12121, 2022 WL 30175 (11th Cir. 2022) (declaratory judgment granted that no commissions owing to agent); *ACS Primary Care Physicians Southwest, P.A. v. UnitedHealthcare Ins. Co.*, 514 F. Supp.3d 927 (S.D. Tex. 2021) (dismissing PPO emergency care statute claim as completely preempted by ERISA and quantum meruit claim); *McGuire v. Golden Rule Ins. Co.*, Case No. CV-20-02097-PHX-SPL, 2020 WL 6891411 (D. Ariz. Nov. 24, 2020) (dismissing unjust enrichment claim); *New York Life Ins. Co. v. Varati*, Case No. 4:21-cv-0315, 2021 WL 3033117 (S.D. Tex. July 19, 2021) (motion to dismiss and judgment on the pleadings granted that no obligation existing under life insurance policy); *Mission Toxicology, LLC v. UnitedHealthcare Ins. Co.*, 499 F. Supp.3d 338 (W.D. Tex. 2020) (summary judgment dismissing out-of-network labs' \$50M ERISA benefits claims for failure to exhaust administrative remedies and rejecting labs' futility exception); *Marco Z. v. UnitedHealthcare Ins. Co.*, Case No. SA-20-CV-00351-JKP, 2020 WL 6492921 (W.D. Tex. Nov. 4, 2020) (dismissing state law and statutory claims based on ERISA conflict preemption, and rejecting provider arguments characterizing claims as "rate of payment" dispute or that 29 U.S.C. 1024 requires a plan administrator to furnish a copy of the administrative record or be subject to daily statutory penalty); *Wilson v. Virtual Benefits Group, Inc.*, Case No. CIV-19-335-D, 2020 WL 870234 (W.D. Okla. Feb. 21, 2020) (dismissing vicarious liability claims against insurer); *CHG Hospital Houston v. Blue Cross Blue Shield of Texas, a Division of Health Care Service Corporation*, Case No. 4:20-cv-00718, 2020 WL 4904639 (S.D. Tex. Aug. 20, 2020) (motion to compel arbitration granted, rejecting provider claims that arbitration clause violates 15 U.S.C. 1012 and does not delegate arbitrability of disputes to arbitrator); *Stegall v. TML Multistate Intergovernmental Employee Benefits Pool, Inc.*, Case No. 05-18-00239-CV, 2019 WL 4855226 (Tex. App. – Dallas 2019, no pet.) (affirming plea to the jurisdiction that claims administrator of self-insured intergovernmental risk pool entitled to governmental immunity); *Mission Toxicology, LLC v. UnitedHealthcare Ins. Co.*, Case No. 5:17-cv-1016-DAE, 2018 WL 2222854 (W.D. Tex. Apr. 20, 2018) (dismissing non-ERISA benefits claims for lack of standing, dismissing ERISA claim for failing to identify terms and provisions of plan at issue, and dismissing ERISA fiduciary duty and denial of full and fair review claim); *United HealthCare Services, Inc. v. Next Health, LLC*, Case No. 3:17-cv-0243-S, 2018 WL 3520429 (N.D. Tex. July 20, 2018) (Rule 12(e) motion granted requiring provider to amend claims spreadsheets to identify policy and representative plan terms at issue), 2019 WL 1426256 (ordering provider to identify specific assignment of benefits language), and Case No. 3:17-cv-00243-S-BT [Doc. 274] (dismissing out-of-network labs' \$186M ERISA benefits claims with prejudice for failure to comply); *Sky Toxicology, Ltd. v. UnitedHealthcare Ins. Co.*, Case No. 5-16-cv-01094-FB-RBF, 2018 WL 4211742 (W.D. Tex. Sept. 4, 2018) (dismissal of labs' state law



claims based on ERISA); *Zeefe v. American Heritage Life Ins. Co.*, Case No. 5:15-cv-303-KKC, 2016 WL 1595380 (E.D. Ky. Apr. 20, 2016) (dismissing agent's federal and state anti-retaliation claims for failure to exhaust administrative remedies); *Johnson v. UnitedHealthcare of Texas, Inc.*, 167 F.Supp.3d 825 (W.D. Tex. 2016) (summary judgment that insurer did not abuse its discretion in denying plaintiff's claim for benefits); *South Texas Health System v. Care Improvement Plus of Texas Ins. Co.*, 159 F.Supp.3d 763 (S.D. Tex. 2016) (summary judgment that Medicare claims preempted by federal law, and provider unable to recover statutory penalties under the Texas Prompt Pay Act for late paid claims); *American Heritage Life Ins. Co. v. Morales*, 159 So.3d 160 (Fla. App. 3 Dist. 2015) (summary judgment that alcohol exclusion under an accidental death policy applies when insured's intoxication contributes to his death, and does not require the intoxication to be the sole cause of the accident); *McAllen Anesthesia Consultants, P.A. v. United Healthcare Services, Inc.*, Case No. 7:14-cv-913, 2015 WL 9257154 (S.D. Tex. Dec. 14, 2015) (dismissing claims based on immunity because acting as the administering firm and agent of state government entity); *Mixon v. Golden Rule Ins. Co.*, Case No. 2:12-cv-234-KS-MTP, 2014 WL 232114 (S.D. Miss. Jan. 22, 2014) (summary judgment under Mississippi law dismissing bad faith, negligence, and misrepresentation claims); *Hall v. Fidelity & Guaranty Life Ins. Co.*, Case No. 4:13-cv-394-A, 2014 WL 642802 (N.D. Tex. Feb. 18, 2014) (summary judgment that life policy lapsed for nonpayment of premium prior to death of insured); *Delluomo v. American Medical Security Life Ins. Co.*, Case No. CIV-11-1337-C, 2013 WL 5517483 (W.D. Okla. Oct. 1, 2013) (summary judgment under Oklahoma law dismissing bad faith claim); *Franklin v. American Heritage Life Ins. Co.*, Case No. 1:12-cv-129-TWP-TAB, 2013 WL 3815982 (S.D. Ind. July 19, 2013) (summary judgment under Indiana law rescinding life insurance policy due to misrepresentations on the application for insurance); *Richard v. Golden Rule Ins. Co.*, Case No. CIV.A. 11-3019, 2012 WL 6728582 (E.D. La. Dec. 28, 2012) (summary judgment under Louisiana law on short-term medical policy); *Roberts v. American Medical Security Life Ins. Co.*, Case No. 09-cv-356-GKF-TLW, 2012 WL 5305096 (N.D. Okla. Oct. 25, 2012) (summary judgment dismissing agent claims for commissions and tortious interference); *Emergency Health Centre at Willowbrook, LLC v. UnitedHealthcare of Texas, Inc.*, 892 F.Supp.2d 847 (S.D. Tex. 2012) (summary judgment that medical claims for facility charges need not be paid to an unlicensed emergency medical facility).

Education

- JD, South Texas College of Law, summa cum laude; graduated first in class
- BS, West Virginia University, cum laude

Admissions + Memberships/Associations/Certifications

- State Bar of Texas
- U.S. District Courts for the Northern, Eastern, Southern & Western Districts of Texas
- U.S. District Courts for the Eastern District of Arkansas
- U.S. District Court for the District of Colorado
- U.S. District Court for the Eastern District of Michigan



- U.S. District Court for the Eastern District of Wisconsin
- U.S. District Courts of Appeals for the Fifth and Sixth Circuits
- U.S. Supreme Court

- *American Bar Association*
- *Dallas Bar Association*
- *The Defense Research Institute*
- *Arbitrator, American Arbitration Association*