

Zachary Rothenberg

Partner

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Perseverance, versatility, and efficiency. These are attributes that serve Zachary Rothenberg when he's competing in a triathlon – his preferred athletic endeavor – but also define his approach in litigation. Zach has spent more than a decade-and-a-half litigating business disputes in federal and state courts and in arbitration. He has represented clients in diverse industries including entertainment, professional services, financial services, marketing, and manufacturing. As a partner at Nelson Hardiman, Zach leverages his broad knowledge of industries and business models to advise healthcare clients.

Focused on Litigation Solutions Across a Broad Spectrum of Providers and Issues

Zach regularly represents healthcare clients in cases involving breach of contract, fraud, unfair competition, and misuse of trade secrets. His clients have ranged from individual doctors, nurses, and other individual healthcare providers, to ambulatory surgery centers, pharmacies, and drug rehabilitation facilities, to hospitals and Independent Practice Associations (“IPAs”).

Strong Experience with Behavioral Health Providers

Zach has a breadth of knowledge in the behavioral health space. He advises drug rehabilitation facilities on land use, advocating for clients where administrative actions challenge zoning laws, attempting to prevent facilities from operating in their existing location. He litigates out-of-network and in-network reimbursement cases on behalf of addiction treatment facilities and responds to special investigation audits. He has also advised on labor and employment defense matters including those related to racial discrimination, wrongful termination, wage & hour disputes, and retaliation. Clients have come to rely on his insight regarding employee handbooks and labor code issues.

Accolades

Zach was named to the Southern California Rising Stars list for seven consecutive years (2008-2014) and has been [included](#) on the Super Lawyers list for the past four years (2017-2020).

Life Outside the Firm

Outside the courtroom, Zach has utilized that same litigation tenacity to post a sub 6-hour Half Ironman triathlon race. His idea of fun is cycling along Mulholland Drive or the Pacific Coast Highway in a nifty spandex outfit (and helmet, of course) preparing for his next race. For many years, Zach spent his evenings catching live music all around town, but, now a dad, he is resigned to the living room with his Spotify account and a nice single malt.

Practice Areas

- [Government Investigations](#)
- [Litigation](#)
- [Regulatory Compliance](#)
- [Transactions](#)

Credentials

Education

Harvard Law School, J.D.

Columbia, B.A.

Admissions

State Bar of California

Affiliations

American Health Lawyers Association

Beverly Hills Bar Association, Health Law Committee
(Executive Committee)

California Society for Healthcare Attorneys
(Education Committee)

California Young Lawyers Association
(Past Board of Directors)

Los Angeles County Bar Association, Healthcare Law Section
(Executive Committee)

ProVisors

Experience

- **Business Litigation** When a father of a teenager being treated for addiction wrongfully pocketed more than \$100,000 in insurance proceeds to buy a house instead of reimbursing a recovery facility, Zach filed multiple actions against the father including for unjust enrichment and fraud. The case was further complicated by the fact that the father never signed any contracts with the rehab facility and worked out of state. However, Zach was able to serve the defendant through some unique sleuthing efforts and dogged determination. In the end, he won a full judgment plus interest against the father.
- **Employment Dispute** Settled a whistle-blower retaliation matter on behalf of an Orange County addiction treatment company for pennies on the dollar after a Nelson Hardiman investigation led to the discovery of employment information that substantially weakened the claimant's case.
- **Employment Litigation** Represented a bariatric surgeon in bringing contract, tort, and Labor Code claims against a former employer/medical practice represented by the litigation department chair for a national law firm. After five-day arbitration, client was awarded 100% of unpaid wages, interest, civil penalties, and attorneys' fees.
- **Employment Litigation** Represented a nurse in pre-litigation efforts to resolve a dispute with a former physician-employer alleging misappropriation of trade secrets, fraud, and unfair competition based on nurse's communications with patients announcing her departure.
- **First Amendment/Anti-SLAPP**: Represented pharmacist serving as class representative in large class action against dietary supplement manufacturer. Pharmacist was named as defendant in cross-action claiming that he had slandered supplement manufacturer in online video and television video discussing the nature of the class action lawsuit. Zach filed an "anti-SLAPP" motion to strike the cross-claims, arguing that his comments were protected speech under the First Amendment. The cross-claims against Zach's clients were stricken and he was awarded all of his attorney's fees.
- **Intellectual Property**: Represented internet retailer of dietary supplements in multi-party federal court trademark infringement litigation. Zach leveraged deposition testimony and documents produced in discovery to convince the plaintiffs that his client was not one of the "bad actors" and to settle Zach's client out of the case on favorable terms.
- **Land Use Litigation** Represented addiction treatment facility facing public nuisance action brought by city government that jeopardized the facility's ability to continue operating. After lengthy negotiations, Zach was able to convince the city that the facility posed no threat to the communication. The City agreed to dismiss the case, with prejudice, without any payment of money.
- **Managed Care** Represented IPA in a five-year action against a laboratory, defending against numerous claims and legal theories seeking more than \$1.5 million for lab testing performed after termination of the parties' agreement. Following five days of arbitration, arbitrator dismissed all but one claim, reducing potential exposure to a fraction of the claimed amount.
- **Municipal Law** Represented sober living home in dispute with city government. Zach was able to employ his knowledge of Fair Housing Act ("FHA") and Americans with Disabilities Act ("ADA") to negotiate an agreement unique to his client that enabled the facility to continue operations as-is.
- **Reimbursement** Represented an ambulatory surgery center in out-of-network "fee forgiveness" action against a major insurance company. Pursuing in excess of \$3 million for claims improperly denied based on claim that surgery center "forgave" patient contribution as inducement for using out-of-network facility. Obtained successful rulings on: motion to remand from Federal Court, demurrers, motions to compel discovery.
- **Unfair Competition** Obtained a permanent injunction on behalf of a Los Angeles medical marijuana dispensary, as part of a global settlement with an illegal competitor business.
- **Qui Tam ("Whistleblower") Defense** Settled a potential large whistle-blower lawsuit on behalf of an addiction treatment facility. In addition to potential false claims act violations, a former employee alleged a hostile work environment (constructive discharge) and retaliation. Sensing an opportunity with an eager plaintiff, Zach proposed an unusual pre-filing mediation, which resulted in a quick settlement for a fraction of the original demand amount.
- **Hospital Litigation** Obtained permanent injunction against hospital patient who had refused to leave the hospital despite lacking medical necessity.
- **Hospital Operations** Helped California independent hospital system develop a toolkit to address various discharge challenges, including those involving unrepresented and homeless patients as well as payment for extended hospital stays.
- **Fair Housing Rights** Resolved disputes with five cities across California regarding complaints concerning behavioral health housing.
- **Hospital Litigation** Nelson Hardiman was able to persuade a patient, who had refused to be discharged for 18 months and refused to pay the hospital, to agree to be discharged. Then Nelson Hardiman filed a lawsuit against the patient and won a three-week trial recovering the monies owed to the hospital.