

Gary S. Pancer
Partner, Los Angeles, California

Healthcare Litigation
 Managed Care
 Business Litigation



GARY S. PANCER

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Current Scope of Practice

Gary Pancer focuses his practice on general civil, business and healthcare litigation. Mr. Pancer has extensive experience representing healthcare service plans, physicians and other healthcare clients in complex business litigation and consumer disputes including bad faith litigation. He also represents healthcare clients in administrative proceedings before the Department of Managed Health Care, the Medical and Dental Boards of California, U.S. Department of Labor and other state and federal agencies.

Mr. Pancer has successfully litigated many cases on behalf of healthcare clients in trial courts and binding arbitration, including several multi-million dollar business and consumer cases. He frequently advises healthcare clients concerning general risk management issues. Prior to becoming a lawyer, Mr. Pancer worked for several years in a management position for a large publicly traded HMO.

Representative Matters

- Obtained defense award on behalf of a large health plan in a multi-million dollar provider dispute after multi-month binding arbitration regarding managed care risk pools. Also recovered award of attorneys fees as prevailing party which was upheld on appeal by the California Court of Appeal.
- Acted as co-lead national counsel for a Pharmacy Benefit Manager (PBM) in multi-district litigation involving allegations of unlawful business practices related to formulary decisions and pharmacy rebate arrangement with a large pharmaceutical company.
- Obtained non-suit on first day of jury trial from an Orange County Superior Court judge in a consumer lawsuit regarding allegations of bad faith and unlawful business practices.
- Successfully obtained numerous judgments following the granting of demurrers without leave to amend in various state courts throughout California in member litigation on federal preemption grounds including Medicare, ERISA and FEHBA.

- Obtained voluntary dismissal on behalf of a large health plan from Plaintiffs in a class action involving allegations of unlawful business practices pertaining to third party liability recovery practices.
- Obtained summary judgment from state court on behalf of specialized behavioral health plan in a bad faith and unlawful business practices claim related to the denial of residential treatment for anorexia.
- Obtained summary judgment on behalf of large health plan in a bad faith and unlawful business practices case involving allegations of wrongful denial of out-of-network services where claim was that appropriate services were not available within the HMO network.
- Obtained summary judgment on behalf of large health plan in a bad faith and unlawful business practices case involving allegations of wrongful denial of proton beam radiation therapy for prostate cancer.
- Successfully defended large health plan in numerous lawsuits brought by hospital and medical groups involving contract and risk pool disputes.
- Successfully defended large health plan and provider groups in claims brought by non-contracting emergency providers regarding reasonable and customary charges.
- Successfully defended Independent Practice Association in utilization review case.
- Successfully defended large health plan in numerous Administrative Law Judge hearing through the Social Security Administration as well as Medicare Appeals Council on Medicare coverage disputes.
- Successfully defended specialized vision plan in interference with business practices claim brought by terminated provider.

Affiliations, Activities and Accomplishments

Mr. Pancer is admitted to the State Bar of California (1992). He is also admitted to practice before the United States District Court, Central, Northern, and Eastern Districts and the United States Court of Appeals, Ninth Circuit.

He is a member of The American Health Lawyers Association, the Healthcare Law Section of the Los Angeles Bar Association and the California Society of Healthcare Attorneys.

Mr. Pancer is the immediate past president and serves on the board of directors of the Frank D. Lanterman Regional Center, a non-profit organization that provides services to thousands of children and adults with developmental disabilities in the greater Los Angeles area. He also serves as vice president of Newbury Park Pony Baseball, serving more than 700 children (ages 5-15).

Mr. Pancer recently successfully represented a young man from the African country of Eritrea in a pro bono matter, obtaining grant of asylum by the U.S. Immigration Court under the Convention Against Torture. Mr. Pancer is also actively involved in representing holocaust survivors in the ZRBG Pension Project through the Bet Tzedek Holocaust Survivors Justice Network.

Presentations and Publications

Presentations

- Speaker, “Litigation Risk Management,” Rx Solutions, Irvine, California (May, 2011).
- Speaker, “The Shifting UR/QM Liability-Best Practices in Risk Management,” California Association of Physician Groups (CAPG) Southern California General Membership Meeting, Los Angeles, California (September, 2010).
- Speaker, “The Shifting UR/QM Liability-Best Practices in Risk Management,” California Association of Physician Groups (CAPG) Northern California General Membership Meeting, Oakland, California (June, 2010).
- Moderator, “Prescription for Conflict: The Scope of Federal Preemption under Medicare Parts C and D,” The American Bar Association Health Law Section (January 13, 2010).
- Moderator, “Health Plans Vicarious Liability for Network Provider's Acts or Omissions,” American Health Lawyers Association Teleconference (April 23, 2009).
- Speaker, “Retroactive Rescission of Health Plan Contracts,” State Bar of California Annual Meeting, Monterey, California (September 2008).
- Speaker, “Medicare Preemption of State Law Tort Claims Under the MMA,” Four Seasons, Westlake Village, California (February 2008).
- Speaker, “Recent Developments In Managed Care Litigation,” The Hartford Club, Hartford, Connecticut (September 2007).
- Moderator, “Health Plan External Review-Effective Mediation or Liability Landmine?,” American Health Lawyers Association, (February 2004).

Publications

- Co-author, “Common Managed Care Disputes,” Chapter 2 of Managed Care Litigation, 2011 Cumulative Supplement, published by the Bureau of National Affairs, Inc. (May 2011).
- Author, “Insurance Coverage for Treatment of Autism: Legal Trends in California and Nationwide,” *California Health Law News*, Vol. XXIX, Issue 2 (Spring 2011).
- Co-author, “Recent Trends in Insurance Coverage Litigation for Treatment of Autism,” Sedgwick's *Healthcare Law Newsletter* (Winter 2011).
- Co-author, “Common Managed Care Disputes,” Chapter 2 of Managed Care Litigation, 2010 Cumulative Supplement, published by the Bureau of National Affairs, Inc. (May 2010).
- Co-author, “Common Managed Care Disputes,” Chapter 2 of Managed Care Litigation, published by the Bureau of National Affairs, Inc. (May 2009).

- Co-author, “Court Expands Fair Procedure Rights Regarding Admission to Healthcare Provider Networks,” Sedgwick Healthcare Law Newsletter (Summer 2008).
- Author, “Court Rules Unlicensed, Out-of-State Physician Subject to Prosecution for Web Prescriptions,” Sedgwick Healthcare Law Newsletter (Summer 2007).
- Co-author, “Recent Developments in Medicine and Law,” Tort Trial & Insurance Practice Law Journal, American Bar Association, Volume 40, No. 2 (Winter 2005).
- Author, “The Role of Cost-Effectiveness in Managed Care Contracts,” Health Plan & Provider (BNA), Volume 10, No. 31 (August 10, 2004).
- Author, “Lanterman Centers Are Not Liable for Provider Actions,” Los Angeles and San Francisco Daily Journal (February 18, 2004).

Education

Mr. Pancer received his B.A. (1984), *cum laude*, from California State University Northridge and his J.D. (1992) from Southwestern University School of Law. Mr. Pancer received exceptional achievement awards in the study of Health Care Liability in 1990, Health Care Regulations and Mass Communications Law in 1991.