

Martin S. Himeles, Jr.

Partner

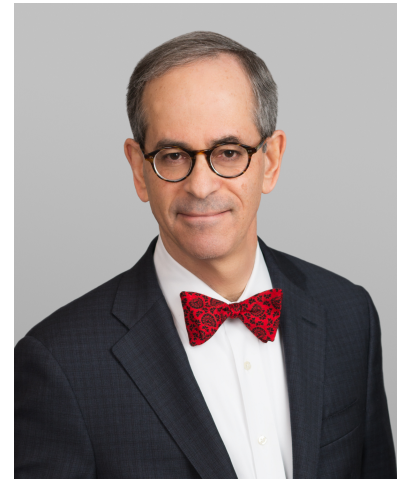
Martin S. Himeles, Jr., managing partner of Zuckerman Spaeder's Baltimore office, has 40 years of experience addressing complex legal problems through rigorous analysis, sound litigation judgment, and effective advocacy.

Marty's courtroom record includes trials of a broad range of civil and criminal matters, as a private practitioner representing corporations and individuals and as a federal prosecutor.

Marty's practice encompasses a diverse mix of litigation of commercial origin. He has represented businesses and individuals in criminal investigations and at trial and has won acquittals in federal criminal trials on behalf of clients charged with offenses such as fraudulently misrepresenting product test results to obtain government approval; wire and mail fraud; and federal campaign contribution offenses. He has represented health care providers in government and internal investigations of alleged fraud and abuse and has successfully defended them in resulting litigation. He has led independent investigations for committees of the boards of directors of public companies that have faced grand jury investigations and other allegations of wrongdoing. And he has represented a range of business entities, professionals, and other individuals in complex civil litigation and has won cases as both plaintiff and defendant. Marty's successes in appellate matters have given rise to often-cited decisions.

For these accomplishments, Marty has been recognized with numerous honors. He is a fellow of the American College of Trial Lawyers; is listed in *Chambers USA: America's Leading Lawyers for Business* as one of Maryland's top commercial and white collar litigators, and has been listed in *The Best Lawyers in America* since 2003 in diverse practice areas including at present bet-the-company litigation, healthcare litigation, commercial litigation, white-collar criminal defense, and securities litigation. He is also listed as a "Litigation Star" in the *Benchmark Litigation* guide, and has been profiled in the *Baltimore Business Journal's* "Who's Who in Law," among other publications.

Before joining Zuckerman Spaeder in 1990, Marty was an Assistant U.S. Attorney in Baltimore, where he specialized in white collar matters. He headed the investigation of Dutch, German, and American businessmen and companies, which led to charges of selling a mustard gas precursor to Iraq, and he represented the government in *coram nobis* proceedings



Baltimore

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Practice focus

- Business Litigation
- White Collar Defense
- Health Care
- False Claims Act
- Investigations
- Legal Profession and Ethics
- Procurement fraud
- Securities and Commodities Litigation
- Pro Bono

Education

- Harvard Law School, J.D.,
magna cum laude, 1981
 - Editor, *Harvard Civil Rights-Civil Liberties Law Review*
- Yale University, B.A.,
summa cum laude, 1978
 - Phi Beta Kappa



ZUCKERMAN
SPAEDER

brought by former Maryland Gov. Marvin Mandel after the U.S. Supreme Court's landmark decision in *McNally v. United States*. Marty also served as a law clerk for the Hon. Francis D. Murnaghan Jr., of the U.S. Court of Appeals for the Fourth Circuit.

Languages

Marty is co-chair of the Health Care Fraud Substantive Committee of the American Bar Association (ABA) White Collar Crime Committee and of the Equal Justice Council of Maryland Legal Aid, and he serves on the Board of Directors of the Francis D. Murnaghan Jr. Appellate Advocacy Fellowship. He is a past president of the Maryland Chapter of the Federal Bar Association and has spoken and written about the federal criminal justice system, about health care fraud and abuse, and about other legal matters. He serves on the Board of Directors of the Associated: Jewish Community Federation of Baltimore and has held leadership positions with the Baltimore Chapter of the American Jewish Committee and other organizations focused on Jewish concerns.

Government service

- Assistant U.S. Attorney
 - District of Maryland

Professional leadership

- Fellow, American College of Trial Lawyers
- Co-Chair, Health Care Fraud Substantive Committee, ABA White Collar Crime Committee
- Co-Chair, Equal Justice Council, Maryland Legal Aid
- Member, Board of Directors, Francis D. Murnaghan Jr. Appellate Advocacy Fellowship
- Past President, Federal Bar Association, Maryland Chapter

Community involvement

- Member, Board of Governors, The Associated: Jewish Community Federation of Baltimore
- Member, Executive Committee, Community Planning and Allocations, and Chair, Research and Data Workgroup, The Associated: Jewish Community Federation of Baltimore
- Co-Chair, Baltimore's Jewish Community Study 2020, The Associated: Jewish Community Federation of Baltimore



- Past President, Baltimore Chapter, American Jewish Committee
- Past Board Member, Levindale Hebrew Geriatric Center and Hospital

Recognitions

- Chambers USA: America's Leading Lawyers for Business, Litigation: General Commercial and Litigation: White-Collar Crime and Investigations (Maryland)
- Benchmark Litigation, Local Litigation Star (Maryland)
- The Best Lawyers in America, Bet-the-Company Litigation; Commercial Litigation; Criminal Defense: White-Collar; Litigation - Health Care; Litigation - Securities
- Super Lawyers (Maryland)
- The Best Lawyers in America, Lawyer of the Year, Securities Litigation, 2023
- Who's Who Legal, Global Leader: Investigations, 2022
- Who's Who Legal, Global Recommended Lawyer: Investigations, 2021
- The Best Lawyer in America, Lawyer of the Year, Securities Litigation, 2020
- Maryland Legal Aid's Equal Justice Council Executive Director's Award, 2017
- The Best Lawyers in America, Lawyer of the Year, White-Collar Criminal Defense, 2016
- Maryland Legal Aid's Equal Justice Council, Champion of Justice, 2014
- The Daily Record, Leadership in Law Award, 2013
- Baltimore Business Journal, Who's Who in Law, 2003

Bar admissions

- Maryland
- New York

Court admissions

- U.S. Supreme Court

- U.S. Court of Appeals, Second Circuit
- U.S. Court of Appeals, Third Circuit
- U.S. Court of Appeals, Fourth Circuit
- U.S. Court of Appeals, Eighth Circuit
- U.S. District Court, District of Maryland
- U.S. District Court, Eastern District of New York
- U.S. District Court, Southern District of New York

Clerkships

- Hon. Francis D. Murnaghan Jr., U.S. Court of Appeals, Fourth Circuit

Representative matters

- Successfully defended at trial a business executive charged with defrauding the United States of millions of dollars in connection with servicing large portfolios of mortgage-backed securities.
- Prevailed at trial and on appeal in a complex declaratory judgment action permitting the termination of a long-term contract between a nationally recognized health system and a provider of essential services due to deficient performance.
- Successfully represented a national health care company in an investigation and litigation arising from a complaint filed under the qui tam provisions of the False Claims Act alleging that it overcharged federal healthcare programs and retained the resulting overpayments rather than refunding them, in violation of the reverse false claim provisions of the False Claims Act; after U.S. Department of Justice declined to intervene, obtained dismissal of complaint.
- Obtained dismissal of an action brought under the qui tam provisions of the False Claims Act against Maryland hospitals alleging manipulation of patient population to increase revenue under Maryland's All-Payer System for hospital reimbursement.
- Obtained dismissal by the U.S. District Court for the District of Delaware, affirmed by the U.S. Court of Appeals for the Third Circuit, of a False Claims Act action alleging that client, a supplier of durable medical equipment, conspired with others to cause a hospital and its



providers to refer their patients to the client, in violation of the federal Anti-Kickback Statute and Stark Law.

- Represents a health system in False Claims Act investigation of receipt of alleged kickbacks from third-party service provider in exchange for patient referrals.
- Represents a health plan in a False Claims Act investigation alleging failure to disclose error made by government actuary that caused overstatement of past capitation rates, resulting in tens of millions of dollars of asserted overpayments.
- Represents a national health care provider in a False Claims Act and antikickback investigation of alleged receipt of valuable physician prescribing data from a major supplier to induce purchases of supplier's products.
- Conducted an internal investigation into allegations of financial accounting fraud on behalf of the audit committee of a publicly traded health care corporation.
- Conducted an internal investigation into alleged criminal antitrust violations for a special committee of the board of a publicly traded company.
- Defended a manufacturer of a heat-resistant coating in three-month trial resulting in acquittal of charges of making false statements to the Nuclear Regulatory Commission (NRC) in order to obtain approval of a product used to protect safe shutdown cables in nuclear power plants.
- Represented a publicly traded national health care provider in a federal health care fraud investigation of alleged billing for services not rendered that concluded without government action.
- Obtained summary judgment on behalf of the retired CEO of a major regional non-profit in a complex ten-defendant ERISA enforcement action brought by the Department of Labor.
- Obtained summary judgment in complex litigation against a national cable television firm brought by a minority owner of a large cable television franchise seeking millions of dollars for breach of contract and for fraud and other torts.
- Represented on appeal and remand a nationally prominent attorney in litigation seeking a share of a fee exceeding \$100 million, obtaining reversal of a trial court decision dismissing the action.



- Represented a business executive in litigation brought by a federal agency alleging nationwide consumer fraud and seeking millions of dollars in compensatory relief.
- Represented a prominent executive of a widely known firm in the construction industry, obtaining an acquittal of federal campaign contribution charges arising from contributions made by employees to a federal congressional campaign, which the government contended were disguised corporate contributions and exceeded contribution limits.
- Represented the chief executive of a health care company in a qui tam case involving allegations that the company and a leading pharmaceutical manufacturer engaged in violations of the False Claims Act, the Anti-Kickback Act, and off-label promotion of the manufacturer's products. Persuaded the Department of Justice not to intervene, and reached a resolution pursuant to which all claims were dismissed against our client.
- Represented a personal representative and beneficiary of a large estate in litigation arising from efforts by the decedent's widow to defeat a large charitable bequest. Achieved settlement supported by the charitable beneficiaries.
- Represented high-net-worth individuals and their families in disputes with their former trust and estates counsel arising from negligent drafting of wills and trust instruments that risked unnecessary estate tax liability, obtaining settlements that fully protected the clients against the possible imposition of the unnecessary estate taxes.
- Represented a major Maryland institution in defense of an action brought by a software provider asserting breach of contract, misappropriation of trade secrets, and other tort claims in connection with the client's transition to other software.
- Prosecuted trade secret and related claims against a major government contractor, replacing predecessor counsel after the complaint was dismissed, defeating a motion to dismiss an amended complaint, and developing critical evidence in discovery that led to a favorable settlement.
- Represented a multinational technology company in a copyright infringement action against a competitor for copying source code in copyrighted software, achieving a favorable settlement with both permanent injunctive



relief and the payment of damages.

- Represented a regional construction firm and its owner in a five-year federal grand jury investigation of minority business enterprise fraud, persuading federal prosecutors not to pursue criminal charges or seek civil remedies against the firm or any of its employees.

