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LEADING COMMERCIAL LITIGATORS 2025



ANDREW SOUKUP

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LITIGATION

With 15 years of experience and as co-chair of the firm's class action litigation practice, Andrew Soukup represents heavily regulated businesses in class actions, multidistrict litigation and other high-stakes disputes.

"The first case I was assigned to work on at the firm was a class action and I've been doing class-action litigation ever since," he said. "Every class action is unique, which means the strategies that can be deployed to defeat a case change from case to case."

Soukup has developed a proven record of defeating a variety of advertising, consumer protection, privacy and product defect and safety claims,

with exposures ranging from millions to billions of dollars.

Three recent cases highlight his expertise and success in this field.

Firstly, Soukup successfully defended the Procter & Gamble Co. in multidistrict class-action litigation challenging the sale of over-the-counter cold medicine containing phenylephrine, a nasal decongestant. In re Oral Phenylephrine Marketing & Sales Practices Litigation, 23-md-3089 (E.D.N.Y., filed Dec. 6, 2023).

This case was significant as it involved nearly every manufacturer of these medicines and questioned the FDA's longstanding judgment about the medicine's effectiveness.

"The joint defense group featured an all-star cast of lawyers and I was honored that I was tapped to argue our federal preemption defense on behalf of all defendants at the motion-to-dismiss hearing," Soukup said. "The court ultimately agreed with us and dismissed the state-law claims in the MDL on federal preemption grounds."

Secondly, he defended RB Health in class-action litigation challenging the sale of its benzoyl peroxide acne medicine. *Montenegro v. RB Health US LLC*, 24-cv-1878 (C.D. Cal., filed March 7, 2024).

Plaintiffs sought to ban the sale of this medicine despite the FDA's approval of its safety, Soukup said. He played a crucial role in defeating attempts to establish an industry-wide MDL and successfully argued the pre-

emption question on behalf of the joint defense group.

"We were pleased that the court agreed with our federal preemption defense and dismissed these lawsuits," Soukup said.

Lastly, he defended Hoffmann-La Roche and Genentech in class-action litigation challenging the sale of their antimalarial drug Lariam. The plaintiffs, combat veterans, sought to establish a medical monitoring regime rather than recover damages for personal injuries. *Caston et al. v. F. Hoffmann-La Roche Inc. et al.*, 3:23-cv-00928 (N.D. Cal., filed March 1, 2023).

"We have great respect for plaintiffs' military service, but this case was fundamentally flawed: it sought the wrong remedy against the wrong defendants in the wrong forum," Soukup said. "We were pleased that the court agreed with us and dismissed this lawsuit."

Soukup's extensive experience and success in class-action litigation reflect the dramatic growth in this area of law. Factors such as third-party litigation funding and the plaintiffs bar's pivot to class-action litigation have contributed to this trend.

"This has, in turn, led to companies being targeted with more high-stakes cases that strike at the very core of their businesses and the services they provide their customers," Soukup said. "We expect all of these trends to continue for the foreseeable future."