

Katten

Katten Muchin Rosenman LLP



EMPLOYEE BENEFITS LITIGATION, DISPUTE RESOLUTION AND REGULATORY AUDITS

Our Clients

Katten represents plan sponsors, boards of directors and board committees, benefit plan committees, trustees, investment managers and other fiduciaries in litigation and other disputes relating to pension and welfare benefit plans.

Our Services

We provide value-added representation in litigation under the Employee Retirement Income Security Act (ERISA) and other laws that regulate benefit plans. This includes matters involving benefit claims, fiduciary responsibility and liability, recovery of plan assets, "stock drops," plan investments, and ERISA preemption of state law. Our practice combines the skills of seasoned litigators with the hands-on knowledge of our Employee Benefits and Executive Compensation practitioners.

Our lawyers counsel plan sponsors and fiduciaries on the impact of the developing ERISA case law and recommend changes to procedures to anticipate and address issues that might arise under changes in the law. We are also available to counsel plan fiduciaries who manage benefits claims and appeals on adhering to the plan's claims procedures and building a record of the claim in anticipation of an appeal or litigation.

Plans and third-party fiduciaries, such as trustees or investment managers, may be subject to governmental

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- *U.S. News – Best Lawyers®* "Best Law Firms"
 - Employee Benefits (ERISA) Law (National, Chicago) 2019, 2018
 - Litigation – ERISA (National, Chicago) 2019, 2018



audits or other administrative actions under ERISA or the Tax Code. The Employee Benefits Litigation, Dispute Resolution and Regulatory Audits practice has represented clients in numerous audits by the Internal Revenue Service (IRS) and the US Department of Labor (DOL), and in arbitrations, mediations and pre-litigation negotiations.

In addition, Katten represents clients in federal district court, the US Tax Court, arbitrations and mediations, and pre-litigation negotiations with the IRS and the DOL. Because there is frequent overlap between ERISA and other substantive areas of law, we can and do draw on the firm's experience in employment, tax, health care, insurance and securities litigation to develop a comprehensive litigation strategy.

Our Experience

- Representation of a large health care institution in a 10-year controversy with the IRS over the qualification of retirement plans.

- Provision of advice and counsel to a client with respect to a DOL audit of leveraged employee stock ownership established prior to its initial public offering in mid-1990s. DOL alleged certain violations of its rules for leveraged ESOP loans, and the company responded with proposed corrections and retention of independent ESOP fiduciary. The matter was resolved without penalties or excise taxes.
- Defense of ERISA plan fiduciaries in a breach of fiduciary duty lawsuit involving the company stock fund of a 401(k) plan sponsored by a publicly traded corporation.
- Representation of a large securities company in a federal action in Florida brought by the DOL. The case involved allegations that the securities company was a fiduciary with respect to a pension and profit sharing plan and that it engaged in certain prohibited transactions. The case was settled on favorable terms after discovery.
- Representation of defendant fiduciaries in case involving allegations that they had breached their duties under ERISA by continuing to allow participants to invest in employer securities. Both the district court and the US Court of Appeals for the Second Circuit agreed with Katten's argument that the plaintiffs did not have standing under ERISA because they were not participants in the plan during the time of the alleged fiduciary breaches, and the case was dismissed.
- Representation of an employee retirement plan seeking to establish a constructive trust over the proceeds of a large distribution fraudulently obtained by the defendant. The matter was favorably resolved short of trial by a consent order that provided for the full return of all misappropriated funds, including subsequent investment returns, to the plan.
- Representation of the trustee of an ESOP in a claim alleging fiduciary breach, obtaining summary judgment on grounds that plaintiffs did not have standing because they were not participants under ERISA.