ERISA Litigation

Skadden

Skadden partners with clients to protect retirement plans, defend fiduciaries and navigate litigation arising under the Employee Retirement Income Security Act (ERISA). We represent corporate and individual clients in complex ERISA litigation, including putative class actions, fiduciary duty claims and related proceedings under federal law. Skadden offers an interdisciplinary approach, combining deep ERISA-focused litigation experience with the strategic insight of our leading investment management, insurance, and compensation and benefits attorneys.

Comprehensive ERISA Litigation Experience

Our experience includes:

- **Fiduciary Duty Claims**: Defending against allegations of breach of fiduciary duty in connection with employer-sponsored retirement plans.
- **Prohibited Transactions and Plan Amendments**: Navigating claims under ERISA's prohibited transaction provisions and challenges to plan amendments.
- **ERISA Preemption Claims**: Addressing disputes involving ERISA preemption of state law.
- **Securities and Derivative Litigation**: Integrated handling of overlapping ERISA, securities class and derivative claims.
- **Internal and Government Investigations**: Coordinating complex investigations with litigation strategy, including DOL investigations.
- **Cross-Industry Representation**: Providing ERISA litigation guidance informed by broad sector experience and tailored to each client's business needs.
- **Trial and Appellate Advocacy**: Representing clients in courts across the U.S., achieving favorable outcomes at both trial and appellate levels.

ERISA Litigation Counsel for Leading Retirement Plan Sponsors

We have defended and achieved favorable outcomes for some of the nation's largest retirement plan sponsors, including:

- Financial institutions
- Health care providers
- Asset managers
- Retailers
- Insurance companies
- Banks

Rankings and Recognition

- **BTI Fearsome Foursome** — consistently recognized among the top four firms clients "don't want to litigate against"
- Individual attorneys recognized as leading lawyers by ***Chambers USA***, ***Chambers Global***, ***The Best Lawyers in America*** and ***The Legal 500 U.S.***

"Skadden is top-notch in every aspect. It is the go-to firm for complex, bet-the-company litigation. You're hiring the best, the team is second to none."— *Chambers USA* Respondent

ERISA Litigation Defense Highlights

- The Capital Group Companies in the dismissal of a putative class action alleging violations of ERISA in connection with the use of affiliated investment products in their 401(k) plan.
- Cerner Corporation in two putative class actions alleging breaches of ERISA fiduciary duties based on allegedly underperforming investment options and expensive recordkeeping fees.
- Connell Limited Partnership in the dismissal of a purported class action seeking damages relating to an acquisition by the defendant of certain divisions of an ESOP-owned (employee stock ownership plan) company. The plaintiffs complained that the transaction was prohibited under ERISA and that the defendants breached ERISA fiduciary duties to the ESOP participants, committed federal common law fraud and deceit, and violated RICO.
- Corteva, Dow and DuPont in the dismissal of a putative class action alleging that the companies breached ERISA fiduciary duties and engaged in prohibited transactions in connection with the Dow-DuPont merger.
- DST Systems, Inc. and certain of its officers and directors in a putative class action in connection with allegations that defendants breached ERISA fiduciary duties by investing a portion of the company's 401(k) plan assets with an investment adviser who allegedly failed to diversify those assets adequately.
- Eaton Vance in a putative class action alleging that Eaton Vance's in-house 401(k) plan includes unduly expensive and underperforming proprietary investment options.
- Fidelity Investments in:
  - a putative class action in connection with allegations that Fidelity offers products to plan sponsors that violate ERISA's fiduciary duty and prohibited transaction provisions; and
  - the dismissal of a purported class action alleging that Fidelity used participants' confidential data to market non-plan retail financial products to participants.
- Invesco in a putative class action alleging that Invesco's use of affiliated investment products in its 401(k) plan, and in the brokerage window offered through the plan, breaches ERISA fiduciary duties and constitutes prohibited transactions.
- JPMorgan Chase in a putative class action in connection with allegations that JPMorgan's use of affiliated mutual funds and other investment products in its 401(k) plan breaches ERISA fiduciary duties and constitutes prohibited transactions under ERISA.
- Liberty Mutual and certain of its executive officers in a putative class action alleging violations of ERISA in connection with the costs of recordkeeping fees and managed account services.
- MedStar Health, Inc. in a putative class action alleging that the fiduciaries of the MedStar retirement plan breached their ERISA fiduciary duties by retaining expensive and underperforming funds in the plan.
- O'Reilly Automotive, Inc. in:
  - the dismissal of a putative class action alleging ERISA fiduciary breaches based on allegedly imprudent investment options and excessive recordkeeping fees. The Eighth Circuit affirmed dismissal in full;
  - a putative class action alleging fiduciary breaches relating to the use of plan forfeitures; and
  - a putative class action alleging fiduciary breaches relating to the use of health care cost discounts for nonsmokers.
- Putnam Investments and certain of its officers in a complete trial win in a putative class action in connection with allegations that Putnam's use of affiliated mutual funds and other investment products in its 401(k) plan breaches ERISA fiduciary duties and constitutes prohibited transactions under ERISA.
- Reyes Holdings, L.L.C. in a putative class action alleging imprudent investment selection and failure to monitor recordkeeping costs.
- Rithm Capital LLC in a putative class action alleging fiduciary breaches and prohibited transactions relating to the use of forfeitures.
- TIAA in a putative class action alleging that in-plan investment advice tools improperly steer participants into proprietary products.