

Fiduciary Counsel

Our Employee Benefits team advises employers, trustees and pension funds on a range of fiduciary issues, such as their fiduciary duties, the common law of trusts, applicable federal tax statutes and regulations, and other relevant state and federal statutes and rules. This includes regularly advising clients regarding ERISA fiduciary duty provisions and the prohibited transaction rules of ERISA and the Internal Revenue Code.

Our firm is skilled in providing fiduciary ancillary services for public plans in highly regulated environments. Our experience includes analysis and compliance with constitutional, statutory, and regulatory obligations, including initiating litigation (in the discharge of fiduciary obligations) to enforce rights due to public pension plans. Our attorneys meet directly with legislators to discuss legislation that might affect public pension plans or impact the scope of fiduciary duties, as well as participate actively in drafting legislation and monitoring legislative activity.

A distinguishing characteristic of this practice is the combination of unique experience and extensive participation in complex litigation directly governed by the fiduciary obligations of the trustees of plans. Our firm also advises on outlining and developing investment policies that comport with the discharge of fiduciary obligations. Notably, we have represented the two Detroit pension systems in the historic Detroit bankruptcy. In this context, we advised the board of trustees at each step of the way on all action that affected their fiduciary obligations to the trust—an extraordinary undertaking implicating constitutional matters and federal and state law.

We have also advised investment managers and advisors concerning their fiduciary duties under federal and state law, including Department of Labor regulations and SEC regulations. We have revised the customer agreements of investment managers and advisors to comply with these requirements.

We also regularly assist employers with ensuring compliance with their duties under ERISA Section 408(b)(2) to evaluate and benchmark the fees paid to service providers, and to determine the reasonableness of such fees.



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Employee Benefits/ERISA & Compliance Areas of Practice

Employee Benefit Plan Design & Plan Correction Programs
Employee Health Plans
Employee Stock Ownership Plans
Investment Counsel
Public Sector Employee Benefits