

## ERISA Litigation

As a firm of choice for many major businesses, we represent employers, fiduciaries, boards of directors, benefit plans, and plan administrators in all aspects of ERISA litigation, including claims relating to fiduciary liability, plan investments, excessive fees, plan qualification, plan termination, reversion of excess assets, retiree medical benefits, severance and employment contract matters, tax liability matters, and retirement and welfare benefit claims.

### Key Contacts

[Michael Roche](#)

[William G. Miossi](#)

### Areas of Focus

## Class Actions

The increase in ERISA class actions has resulted in new legal challenges for employers and retirement plan fiduciaries alike. While Winston's ERISA litigation attorneys are experienced and skilled in defending these cases, we have also pioneered certain defensive strategies and training programs to help protect plan fiduciaries even before litigation is filed. In addition, many employers have experienced significant drops in the value of their stock during certain periods in recent years or modified or eliminated retiree medical benefits. On many occasions, those events have triggered class action lawsuits under ERISA. Our litigators have successfully defended numerous clients in these types of cases. Importantly, we have substantial experience with the complex issues that often arise, such as alleged breaches of fiduciary duties by the employer, members of the board of directors/or other alleged fiduciaries in connection with the administration of the employer's retirement and 401(k) plans.

[Learn More](#)

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## Change in Control

Because high-stakes corporate acquisitions involve complex financial, tax, and securities law issues, they can lead to litigation when the expectations of the parties involved are not met. Through smart, strategic, and proactive policy drafting, we frequently work with clients to head off and, if necessary, litigate disputes over the interpretation and application of equity compensation plans, golden parachute agreements, and severance arrangements.

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## Corporate Investigations & Executive Matters

Winston's litigators frequently call upon the extensive experience of the firm's ERISA attorneys in connection with corporate internal investigations involving large retirement plans, particularly where fraud is suspected. We partner with the internal investigators to protect and recoup plan assets, and advise on and defend any necessary employee disciplinary actions. If necessary, we also interact with the U.S. Attorney's office, other appropriate prosecutor's offices, or state or government agency to protect plan assets and prosecute fraud.

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## Benefit Claims

As medical costs have skyrocketed and so-called "pension bounty hunters" have appeared, benefit claims litigation also has surged. Often, the first strategy in defending these claims is careful and proactive plan drafting and watchful plan administration. Our attorneys are skilled in advising clients on these preventative activities; however, litigation is never fully avoidable. When plaintiffs pursue lawsuits and the assets of a plan and employer must be safeguarded, we stand ready to protect the best interests of our clients and regularly defend denial of benefit claims and related litigation throughout the country.

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## Executive Malfeasance & Forfeiture

Our executive compensation and employee benefits attorneys have assisted many clients in taking action against current or former executives to protect their business, trade secrets, and/or reputations. We also have devised numerous plan drafting and design strategies to maximize clients' ability to protect their assets and pursue their own actions against trouble-making employees and executives.

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## Fiduciary Issues, Mutual Fund Fees, 401(k) Plan Expenses & Insurance Company Commissions

We have represented many clients in litigation involving fiduciary issues, mutual fund fees, 401(k) plan expenses, and insurance company commissions. In helping clients prevent litigation, we have also performed several plan audits to determine whether fiduciary and/or plan expense procedures can be improved.

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## ERISA Plan Audits

Our attorneys have significant experience guiding clients through the federal audit process of their profit-sharing, pension, and benefits plans. In addition, we conduct comprehensive internal plan audits to ensure legal compliance and best practices are in play. We also offer training programs on the design and administration of qualified retirement plans.

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## Related Capabilities

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Labor & Employment

Employee Benefits & Executive Compensation

Mergers & Acquisitions

Class Actions & Group Litigation

## Resources

[Benefits Blast](#)

## Related Insights & News

### ARTICLE

#### 7th Circ. Ruling Offers Arbitration Clarity For ERISA Claims

OCTOBER 19, 2021

### BLOG

#### Tri-Agencies Clarify Outbreak Period Relief Due to COVID-19

FEBRUARY 26, 2021

### BLOG

#### CAA Benefits Alert: Limited Relief in the Consolidated Appropriations Act, 2021 from Partial Plan Termination Vesting Requirements

JANUARY 13, 2021

### BLOG

#### CAA Benefits Alert: Employers May Now Pay Employees Student Loan Assistance Benefits Until 2026

JANUARY 6, 2021

### BLOG

#### CAA Benefits Alert: New Compliance Guidance and MHPAEA Action Items for

# Insurers and ERISA Covered Benefit Plans under the Consolidated Appropriations Act

JANUARY 6, 2021

## **BLOG**

### CAA Benefits Alert: 2021 Appropriations Bill Adds New ERISA Disclosure Requirements for Health Plan Brokers and Consultants

DECEMBER 29, 2020

## **WEBINAR**

### ERISA Fundamentals for Fund Managers

OCTOBER 29, 2020

## **WEBINAR**

### 16th Annual Employee Benefits Symposium: The Current Status of Executive Compensation: 45 years after ERISA

OCTOBER 1, 2020

## **BLOG**

### New ERISA Proxy-Voting Guidance from the DOL

OCTOBER 1, 2020

## **WEBINAR**

### COBRA Litigation in Practice: The Latest Strategies for Addressing Rising Liability Associated with COBRA Notices

SEPTEMBER 30, 2020

## **BLOG**

### Maintaining Privilege When Responding to Claims for Benefits Under Employee Benefit Plans

JULY 29, 2020

## **BLOG**

### DOL Proposes New Fiduciary Rule

JULY 7, 2020