

Representative Legal Matters

James P. Baker

- Multiemployer Pension Trust Fund
Complete victory in fiduciary liability insurance coverage dispute involving multiple millions in unpaid indemnity and defense costs.
- *Northfield Ins. Co. v. Civic Center Hotel*, 239 F. Supp. 3d 1163 (N.D.Cal. 2017)
Victory in insurance coverage dispute.
- *Mance v. Quest Diagnostics*, 237 F. Supp. 3d 217 (D.N.J. 2017)
ERISA class action case dismissed. Court rules at summary judgment that Quest Diagnostic's Voluntary Separation Agreement Plan was not regulated by ERISA.
- *National Hospitality Client* - In a 2016 case in which the claimant rejected our client's multimillion dollar settlement offer. We defeated the claim in its entirety and then prevailed on a counterclaim.
- *Bluhm v. PNC Financial Services Group, Inc.*, 921 F. Supp. 2d 1019 (S.D. Cal. 2013)
The Court granted Defendants' Motion for Summary Judgment as to Plaintiff's claims for severance benefits.
- *Armbruster v. WageWorks*, 2013 U.S. District LEXIS 96727 (D. Ar. 2013)
Victory in lawsuit for stock plan benefits.
- *Solis v. Webb*, 931 F. Supp. 2d 936, (N.D. Cal. 2012)
Court ruled that because defendants followed the investment directions of an independent fiduciary, the DOL must show defendants knowingly permitted the ESOP to overpay for company stock.
- *In re First American ERISA Litigation*, 258 F.R.D. 610 (C.D. Cal. 2009)
First American Corp. defeats motion for certification of a 37,000 member class in a USD200 million fiduciary breach case convincing the court that certification under Rule 23(b)(1)(B) was improper following the Supreme Court's decision in *LaRue v. DeWolf, Boberg & Associates*, 554 U.S. 248 (2008).
- *In re Dell Inc. ERISA Litigation*, 563 F. Supp. 2d 681 (W.D. Tex. 2008)
Court dismisses with prejudice plaintiffs' USD300 million class action claim ruling that the Dell 401(k) plan fiduciaries had not acted imprudently by retaining Dell stock as a plan investment.
- *Sullivan v. Cap Gemini*, 518 F. Supp. 2d 983 (N.D. Ohio 2007)
Summary judgment granted in favor of Cap Gemini. Court ruled that a release of all general claims barred LTD benefit claim as to Cap Gemini.

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- *Spivey v. Southern Company*, 427 F. Supp. 2d 1144 (N.D. Ga. 2006)
Summary judgment granted to Southern Company. Named class representative's USD 1.1 billion class action "stock drop" fiduciary breach lawsuit dismissed with prejudice because the plaintiff failed to exhaust the 401(k) plan's claim review procedure before filing suit.

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billion class action "stock drop" fiduciary breach lawsuit dismissed with prejudice because the plaintiff failed to exhaust the 401(k) plan's claim review procedure before filing suit.

- *In re Administrative Committee ERISA Litigation*, 2005 WL 3454126 (N.D. Cal. 2005)
Convinced the trial court to dismiss this ERISA class action stock drop case where plaintiff sought USD30 million in damages by establishing class representative had no Article III standing.
- *Ogden v. Americredit Corp.*, 225 F.R.D. 529 (N.D. Tex. 2005)
Class certification denied in a multi-million dollar "stock drop" case by showing the putative class representative did not meet the "adequacy" standards of Fed. R. Civ. P. 23(a)(4).
- *Retail Industry Leaders Ass'n v. Fielder*, 475 F.3d 180 (4th Cir. 2007)
Representation of the United States Chamber of Commerce in filing an amicus brief supporting successful ERISA preemption challenge to Maryland law mandating that large employers provide a minimum level of group health plan benefits to all employees.
- *In re First American Corp. ERISA Litigation*, 2009 WL 536254 (C.D. Cal. 2009)
Representation of First American Corporation in which a federal judge granted the corporation's motion to strike the plaintiffs' jury trial demand. The court, agreeing with the defendants, ruled "there is no right to a jury trial in claims under ERISA for breach of fiduciary duty."
- *Bopp et al. v. Idaho National Laboratory Retirement Plan, et al.*, 709 F. Supp. 2d 1024 (D. Idaho 2010)
Motion to dismiss granted defeating collective action seeking multiple millions in additional retirement plan benefits.
- *Sullivan v. Cap Gemini*, 573 F. Supp. 2d 1009 (N.D. Ohio 2008)
The court ruled, in a matter of first impression, that an employee's general release of all claims at the termination of her employment was enough to extinguished the plaintiff's claim to LTD benefits as to the ERISA plan.
- *Chapman v. ACF Industries, LLC*, 430 F. Supp. 2d 570 (S.D. W. Va. 2006)
Representation of ACF Industries in the successful defeat of a class action that retiree medical benefits were unchangeable under ERISA and the LMRA. Summary judgment was granted to ACF Industries.
- *Chao v. Mazzola, et al.*, Case No. 04-4949 (N.D. Cal. 2007)
Representation of the U.A. Local 38 Pension Trust Fund Trustees. Following a five-year investigation, the U.S. Department of Labor sued the trustees for imprudently "reallocating" USD70 million in pension and other ERISA trust fund assets to the Konocti Harbor Resort and Spa. All claims involving the U.A. Local 38 trustees were dismissed with prejudice pursuant to a consent order agreed to in 2007. The trustees denied any wrongdoing and none of the trustees paid a penny in settling this dispute.
- *Jones v. Chevron Corporation*, 2005 WL 3676786 (N.D. Cal., Oct. 14, 2005)
Representation of Chevron in obtaining summary judgment in a claim for additional pension benefits.

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- *Strunk v. Oregon Public Employee Retirement Board*, 338 Or. 145 (2005)
Representation of the Oregon Public Employees Retirement Board as special counsel in which a majority of USD9 billion in statutory reforms to the Public Employees Retirement System was successfully defeated.
- *Grocery One, Inc. v. Southern Calif. UFCW and Food Employers Joint Pension fund*, CCH Labor Arb Awards, 10-1 Arb # 4869 (2010)
Partial summary judgment arbitration award to employer finding pension fund improperly calculated the withdrawal liability assessment.
- *City of Eugene v. State Public Employees Retirement Board*, 339 Or. 113 (2005)
Representation of State of Oregon Public Employees Retirement Board in a "win-win" settlement with public employers in a USD2 billion pension contribution dispute and then prevailed in defending it from union attack before the Oregon Supreme Court. City of Eugene v. State Public Employees Retirement Board, 339 Or. 113.
- *Lewis v. Saint Mary's HealthFirst*, 402 F. Supp. 2d 1182 (D. Nev. 2005)
Representation of Saint Mary's HealthFirst (HMO) in a successful defense in a case where a severely injured participant alleged the HMO abused its discretion by denying an ERISA claim for health plan benefits based on the plan's exclusion of coverage for injuries sustained while operating a device under the influence of alcohol.
- *Haus v. Bechtel Jacobs Co., LLC* 347 F. Supp 2d 402 (W.D. Ky. 2004)
Change of counsel permitted late filing of appeal.
- *McNeff v. Bechtel-Bettis, Inc.*, 2004 WL 716711 (W.D. PA. 2004)
Representation of Bechtel Bettis in obtaining summary judgment in a claim for pension benefits/ERISA preemption dispute.
- *Braden v. LSI Logic Corp.*, 340 F. Supp. 2d 1066 (U.S.D.C. N.D. Cal. 2004)
Representation of LSI Logic in establishing the right of an ERISA-regulated severance plan to contain a benefit formula offsetting, dollar for dollar, payments made under the WARN Act.
- *Henderson v. State of Oregon Public Employees Retirement Board* (D. Or. 2004), Case No. CV-74-538 (class action); aff'd sub nom., *Wicker v. State of Oregon*, 543 F.3d 1168 (9th Cir. 2008)
Representation of the Oregon Public Employees Retirement Board and won summary judgment for plan trustees before trial court in claim for USD1.6 billion in additional public retirement plan benefits.
- *McDonald v. Entergy Operations, Inc.*, 2004 WL 3398451 (S.D. Miss.)
Representation of T. Rowe Price, which was granted a motion to dismiss, with prejudice, in a claim for plan benefits and for penalties for failing to provide requested information.
- *Cisco Systems, Inc. v. California WCAB*, 2001 WL 34780587 (N.D. Cal. 2001); aff'd, 2002 WL 972172 (9th Cir. 2002)
Representation of Cisco Systems, Inc. which resulted in the establishment of a rule that

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ERISA prevents the California's Workers Compensation Appeals Board from requiring the provision of "free" employee benefits during workers compensation leave.

- *Cline v. T.I.M.E.C.*, 200 F. 3d 1223 (9th Cir. 2000)
Summary judgment in favor of T.I.M.E.C. affirmed. Court finds employer contributions do not become ERISA "plan assets" until they are transferred to the ERISA plan.
- *Matz v. Household International Tax Reduction Investment Plan*, 265 F 3d 572 (7th Cir. 2001)
Partial retirement plan termination dispute where 7th Circuit agreed that a DOL amicus brief relied upon by plaintiffs was not entitled to Chevron defense.