ERISA and Employee Benefits

GrayRobinson's Employee Retirement Income Security Act (ERISA) attorneys have extensive experience in the area of employee benefits and are one of the largest practice teams in Florida. Recognized as a statewide leader in this particular field, our ERISA attorneys are experienced in qualified and nonqualified retirement plans, stock option and other executive compensation plans and fringe and welfare benefit plans.

Although our ERISA attorneys have experience in all aspects of ERISA, each concentrates on certain subspecialty areas, which include ERISA litigation, Employee Stock Ownership Plans (ESOPs), benefit issues relating to corporate acquisitions, nonqualified arrangements, fringe and welfare benefit plans, etc. We believe this approach permits us to provide the highest-quality service in these areas. Our paralegals are highly skilled ERISA technicians with extensive experience who also have significant previous experience in the retirement plan record-keeping industry. Their skills make them an invaluable resource and greatly assist in reducing client legal costs.

Our ERISA attorneys in this department focus on the design, drafting, implementation and operation of all types of retirement and welfare benefit plans. The firm currently represents approximately 30 "qualified" retirement plans. We represent plans maintained by publicly traded and privately held employers, tax-exempt employers and governmental employers.

Our Employee Benefits lawyers are highly regarded for their ingenuity and innovation. We believe that our depth and breadth of experience allow us to develop imaginative solutions to difficult problems - enabling us to be uniquely responsive to our clients' needs. The Department has a significant level of interaction and long term relationships with the national and regional offices of the Internal Revenue Service and Department of Labor. These relationships have often proven beneficial to our clients, and our reputation is such that our opinions are often solicited by both governmental agencies and professional associations on matters of policy. In addition, our employee benefits lawyers speak regularly at local and national continuing education conferences on employee benefits issues. Further, our attorneys have published various articles and treatises on all types of employee benefits plan issues.

Welfare Benefits

Our attorneys practice extensively in the welfare benefit field, regularly analyzing complex issues, including nondiscrimination rules, permitted mid-year election changes, and compliance with federal mandates such as COBRA, HIPAA, FMLA and the Medicare Secondary Payer Rules.

ERISA Litigation

Shifting Strategies

The risk of litigation across the employee benefits marketplace is accelerating. Evolving case law, market volatility, and increased scrutiny on healthcare costs is having an explosive effect

on ERISA benefits litigation as the wave of high-stakes claims and sophisticated tactics continues to exert pressure on managed care companies. Our ERISA litigation team has decades of experience working closely with in-house counsel and other key stakeholders in this highly complicated and granular litigation subspeciality to help shift and protect their defensive strategies.

Sector Strengths

GrayRobinson collaborates with insurance companies and third-party administrators to mitigate risk and guard against individual payor-provider disputes and class actions involving group and individual life, health, and disability policies. Our trusted team of experienced litigators represents several of the largest carriers in the country at both the trial and appellate levels, and in administrative and arbitral proceedings.

We advise and defend clients facing complex ERISA litigation involving medical and disability benefits, fiduciary responsibility, prohibited transactions, retiree medical obligations, commercial transactions, and ERISA's preemption of state law. Working to maximize subrogation and reimbursement rights, we help clients navigate the unique standards of review that govern ERISA claim disputes and also manage disputes stemming from agreements between benefit plans and third party administrators, as well as nonparticipating provider claims.

Our team delivers cost-efficient counseling, while fully developing all available legal defenses. We have handled hundreds of participating and nonparticipating provider claims on behalf of our insurance clients, and are highly attuned to the trends, decisions, and evolving jurisprudence impacting providers and the employee benefits industry as a whole.

Multidisciplinary Team

Members of our ERISA litigation team have served as lead counsel for numerous class actions and individual claims. The team is bolstered by our leading corporate, employee benefits, healthcare, and managed care practices with broadly developed experience in the design, drafting, implementation, and operation of health, life, and disability plans and procedures. We represent dozens of plans maintained by publicly traded and privately held, tax-exempt, and governmental employers.

Deferred Compensation

Because we represent numerous large employers, we have a significant practice in the area of nonqualified deferred compensation. This has been a very active practice area due to the enactment of relatively recent legislation (e.g., IRC §409A). We believe that we were among the first in Florida to provide comprehensive counsel with respect to plan design options available to sponsors or potential sponsors of nonqualified deferred compensation arrangements subject to these new requirements.

Governmental Pension / 457(b) Plans

Our Employee Benefit attorneys have significant experience with respect to pension and 457(b) plans maintained by governmental entities. Governmental plans are not subject to ERISA and

the federal tax rules that apply to these arrangements are significantly different than the requirements applicable to private sector programs. In addition, because these arrangements are exempt from ERISA, they are subject to various state law requirements. Our Chair, Rick Burke, has extensive experience in this area. In fact, the large majority of his practice involves governmental plans. Mr. Burke is a frequent speaker on these issues for the Florida Public Pension Trustees Association and the Florida Division of Retirement's Annual Police Officers' and Firefighters' Pension Trustees' School.

401(k) Arrangements

Due to the proliferation of 401(k) plans over the past 20 years, designing, implementing and advising these arrangements constitute the largest part of our practice. We represent over 200 401(k) plans, including numerous arrangements maintained by very large employers. Recently, 401(k) plans have received a tremendous amount of publicity resulting from fiduciary responsibility litigation. We have been very active in implementing practices and procedures designed to promote compliance with the applicable fiduciary standards. A large portion of our 401(k) plan practice involves resolving qualification issues arising as a result of corporate mergers and/or acquisitions. This is an extremely complicated area due, in part, to the paucity of clarifying administrative pronouncements. Our Chair, attorney Rick Burke, has extensive experience in this area resulting from his longtime representation of several large, national publicly, traded companies.

Employee Stock Ownership Plan ("ESOP")

Our ESOP practice is one of the strongest in the state of Florida. In the past 10 years we have been involved in the establishment of many new ESOPs, with the result that we have a number of continuing ESOP clients. Companies whose ESOPs we helped establish over the past 10 year have total value approaching 1 billion. Our ESOP practice is led by David Ottinger who is regularly assisted by members of the employee benefits and corporate groups.

Nonprofit Organizations

We have depth of experience and have worked extensively with retirement plans and nonqualified deferred compensation arrangements sponsored by nonprofit, governmental, and religiously-affiliated organizations.