



## ERISA Litigation

### Overview

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Our national ERISA Litigation Group handles employee benefit and executive compensation disputes efficiently and effectively for both public and private companies. Drawing on the multidisciplinary backgrounds of attorneys in our employee benefits and executive compensation, business litigation, and labor & employment groups, the ERISA Litigation Group handles a wide variety of ERISA disputes – such as class action pension and “stock drop” claims, employee stock ownership plan (ESOP) breach of fiduciary duty and prohibited transaction claims, executive compensation split-dollar and top-hat benefit claims, and denial of medical and disability benefit claims. We represent employers, plan administrators, trustees, banks, insurers, investment managers, and other fiduciaries and service providers in litigation matters in jurisdictions including Ohio, New York, Illinois, California, Indiana, Missouri, Virginia, Pennsylvania, West Virginia, and others.

Ranked in Chambers USA in the area of Employee Benefits & Executive Compensation (Ohio), our practice garners appreciation from clients who remark that Tucker Ellis has “the bench strength to deal with a wide variety of issues.” One interviewee says, “In addition to legal expertise in the very complex and difficult subject of ERISA and ESOP, the firm has expertise in trial work in this area and a very good approach to litigation.”

Read the latest insights about ERISA Litigation on our [ERISA Blog](#).

### AREAS OF EMPHASIS

- **Cost-Effective Litigation Teams.** We provide aggressive and cost-effective representation in all types of ERISA litigation matters. Tucker Ellis is a leader in the use of alternative fee arrangements, and our team approach to client matters makes our work on these matters more efficient than many clients expect.
- **Class Action Litigation.** We have trial lawyers in every Tucker Ellis hallway who have handled class action and MDL cases at all stages – from class certification through trial.
- **Benefit Claims – Before and After Litigation.** Our lawyers handle benefit claims from start to finish – typically from the administrative claim process all the way through litigation and appeal, if necessary.
- **ESOP Litigation.** We have extensive experience with ESOPs, and have handled numerous cases with privately held employee-owned companies, as well as litigated “stock drop” cases for public companies. Our lawyers are also members of ESOP organizations such as The ESOP Association, the National Center for Employee Ownership, and the Ohio Employee Ownership Center.

## **PUBLICATIONS**

- “ERISA Perspectives” Blog
- “Summary of Financial Projections Issues in Recent ESOP Litigation,” INSIGHTS: ESOP Litigation Thought Leadership (Autumn 2019) – Chelsea Mikula
- “Unsatisfying Answers in 4th Circ. Retirement Plan Ruling,” Law360 (March 2019) – Chelsea Mikula and Scott Stitt

## **SPEAKING ENGAGEMENTS**

- “Hot Topics in Employee Benefits,” 2020 In-House Counsel Summit Webinar, Tucker Ellis LLP (November 2020) – Chelsea Mikula and Scott Stitt
- “What Every Employment Lawyer Should Know About ERISA in a COVID-19 World,” 57<sup>th</sup> Annual Midwest Labor and Employment Law Seminar (October 2020) – Scott Stitt
- “Hot Legal & Regulatory Issues for ESOPs,” 5<sup>th</sup> Annual Great Lakes Regional ESOP Conference, Sandusky, Ohio (October 2019) – Chelsea Mikula
- “ESOP Litigation Trends,” NECO Employee Ownership Conference, Pittsburgh, Pennsylvania (April 2019) – Chelsea Mikula
- “Hot Topics in ESOPs,” Ohio/Kentucky Chapter of The ESOP Association’s Annual Spring Conference, Powell, Ohio (March 2019)
- “The Anatomy, Choices, and Litigation Landmines of ESOPs,” The Gathering 2019, San Diego, California (February 2019) – Chelsea Mikula
- “Asserting Claims and Crafting Defenses Based on Valuation of Stock in ESOP Litigation,” ERISA Litigation Conference, American Conference Institute, New York, New York (November 2018) – Scott Stitt
- “ESOP Litigation Trends,” 4<sup>th</sup> Annual Great Lakes Regional ESOP Conference, Sandusky, Ohio (October 2018) – Chelsea Mikula
- “Leveraging a Legacy: Introduction to ESOPs,” Estate Planning Seminar, Boy Scouts of America, Cleveland, Ohio (September 2018) – Erica McGregor
- “Analyzing the Valuation Issues in Recent ESOP Lawsuits,” NCEO Employee Ownership Conference, Atlanta, Georgia (April 2018) – Scott Stitt
- “On Representing ESOPs,” The ESOP Podcast, Episode 13, Capital Trustees LLC (November 2017) – Scott Stitt
- “ESOP Legal & Regulatory Update,” Ohio Employee Ownership Center’s 31<sup>st</sup> Annual Conference, Fairlawn, Ohio (April 2017) – Scott Stitt
- “Hot New Legal & Regulatory Issues for ESOPs,” The ESOP Association’s Ohio/Kentucky Chapter’s Spring Conference, Columbus, Ohio (March 2017) – Scott Stitt
- “ESOP Litigation: New and Emerging Claims and Guidelines for ESOP Valuations,” American Conference Institute’s 10<sup>th</sup> National Forum on ERISA Litigation, New York, New York (October 2015) – Scott Stitt

- “ESOP Is a 4-Letter Word,” Great Lakes Regional ESOP Conference, Sandusky, Ohio (October 2015) – Scott Stitt
- “Don’t Do That: Avoiding ESOP Problems,” The National Center for Employee Ownership (NCEO) 2015 Conference, Denver, Colorado (April 2015) – Scott Stitt
- “Legal Update,” Ohio/Kentucky Chapter Annual Spring ESOP Conference, Powell, Ohio (March 2015) – Scott Stitt
- “ESOPs: New and Emerging Trends in Private Company ESOP Litigation, Lessons Learned from Recent Decisions in ESOP Cases, and the Latest on DOL Investigations and Enforcement Policies,” ACI ERISA Litigation Conference, New York, New York (October 2014) – Scott Stitt
- “ESOP Litigation: New and Emerging Claims and Recent Developments,” ACI ERISA Litigation Conference, Chicago, Illinois (April 2014) – Scott Stitt
- “Helpful Hints for Fiduciaries: Avoiding and Surviving Litigation,” The National Center for Employee Ownership, Annual Conference, Atlanta, Georgia (April 2014) – Scott Stitt
- “An ESOP Fable: Lessons from the Tribune Transaction,” The ESOP Association, Ohio/Kentucky Chapter, Fall Conference (October 2013) – Scott Stitt

#### **MEDIA QUOTES**

- “Wilmington Fine Points to Lack of ESOP Guidance, Attorneys Say,” Bloomberg Law (March 2019) – Chelsea Mikula and Scott Stitt

#### **PROFESSIONAL MEMBERSHIPS**

- The ESOP Association
- National Center for Employee Ownership
- Ohio Employee Ownership Center

#### **Experience**

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- Represented public companies in defense of fiduciary breach and benefit claims
- Represented employers and insurers in claims for long-term disability benefits and claims for penalties with respect to providing plan documents under ERISA
- Represented ESOP trustees in defense of class action ERISA breach of fiduciary duty and prohibited transaction claims in federal district and bankruptcy courts in Ohio, New York, Indiana, and Tennessee
- Represented employers in class action ERISA retaliation and securities litigation
- Represented employers and plan trustees in disputes regarding contributions to multi-employer plans and the trustees’ resulting fiduciary duties under ERISA
- Represented self-funded ERISA health plans in disputes over stop-loss coverage and in defense of ERISA breach of fiduciary duty claims regarding the coverage available to spouses

- Represented employers and other fiduciaries in investigations and audits of retirement plans and trusts by the DOL, IRS, PBGC, and other special counsel situations