

AGENDA

The Shifting Landscape of Employee Benefits – Imperatives for 2012 and Beyond Los Angeles • October 11, 2012

TIME	TOPIC
8:00 am	Registration and Welcome
8:30 am – 9:30 am	Steering Clear of ERISA Litigation Through Better Document Drafting Employee benefits litigation continues to be a growing area of exposure for those involved in the design, administration, and funding of employee benefit plans. A well-drafted plan document is often the best defense to even the most complex claims. During this session, we will discuss a number of simple drafting changes plan sponsors can make to their pension and welfare documents to reduce the risks of future ERISA claims.
9:30 am – 10:30 am	Health In a Hand Basket - What Employers Need to Know Now Since the Supreme Court's finding that the Affordable Care Act is constitutional, we have been assisting employers to make certain that their healthcare plans are maintained in a compliant manner. We will discuss the areas of the healthcare law that require employer focus in the near term and the pitfalls in the law that employers must look out for. We will also discuss the steps employers should be taking to prepare for the enormous changes coming in 2014. Lastly we will advise employers of the Department of Labor's audit initiative aimed at employer-sponsored healthcare plans. We will discuss common areas of noncompliance which can lead to significant penalties and best practices which can be adopted to avoid audit nightmares.
10:30 am – 10:45 am	Break
10:45 am – 11:45 am	Administering 401(k) Plans in a New – and Uncertain – Regulatory Environment In the United States, over 60 million persons are covered by 401(k) plans, making these types of plans the most prevalent form of retirement plans in the country. Developments, including investment advice regulations, anticipated regulations on "who is a fiduciary," and the ever increasing volume of litigation involving 401(k) plans make an employer's role in sponsoring or administering a 401(k) plan challenging. In this session, we will discuss practical considerations for administering a 401(k) plan in light of a host of recent developments.
11:45 am – 11:50 am	Break
11:50 am – 12:50 pm	Top 10 Ways Employers Are – Inadvertently – Violating IRC 409A The complexity of Internal Revenue Code Section 409A continues to bedevil attorneys and employee benefits practitioners alike. When drafting and structuring deferred compensation, severance and settlement agreements, employers must take care to avoid inadvertent violations that could result in penalty taxes for employees, former employees, and other service providers. In this session we will identify and discuss the most common issues that employers face and identify the best strategies for ensuring compliance with this complex regulatory provision.
12:50 pm – 2:20 pm	Lunch – New Threats to Plan Fiduciaries Quite recently, plan fiduciaries of a 401(k) plan were found liable for tens of millions of dollars in a lawsuit which challenged their selection and monitoring of plan investments and services under a plan which was set up in a very conventional manner. Other recent cases have unexpectedly placed additional burdens on fiduciaries of other types of plans and have opened the door for fiduciaries to be a target of legal claims. We will discuss the practical steps fiduciaries should adopt to comply with the latest decisions and the procedural measures necessary for fiduciaries to protect themselves now, before a lawsuit is filed.
2:20 pm – 3:20 pm	Common Employee Benefits Issues Related to Employee Leaves of Absence Increasingly, we have seen employer concerns relating to how leaves of absence affect employee rights under benefit plans, incentive programs, and executive compensation arrangements. FMLA leave, "garden leave" and leave for disabled employees create complexity for employers sponsoring benefit plans. Employers must know how to handle leave issues that arise in conjunction with plan or program administration, and work preventively to preempt benefit litigation brought by persons on leave. In this session, we will discuss the best way to deal with leave issues in the context of benefit plans and programs.
3:20 pm – 3:30 pm	Break
3:30 pm – 4:30 pm	A Day in the Life of an ERISA Fiduciary: Common Ethical Issues that Surface at Benefits Committee Meetings We will be addressing ethical issues that routinely surface for counsel advising fiduciaries of both defined benefit and defined contribution plans, including the disclosure of legal advice under the fiduciary exception to the attorney-client privilege.