

Benefits Group Of The Year: Mayer Brown

By Adam Lidgett

Law360 (February 3, 2020, 3:17 PM EST) -- Mayer Brown LLP has spent the past year defending universities in Employee Retirement Income Security Act suits accusing them of mismanaging workers' retirement plans, placing the firm among Law360's 2019 Benefits Groups of the Year.

Mayer Brown has been representing schools like The George Washington University, Georgetown University and Cornell University against ERISA suits, and has seen wins along the way.

In July, a D.C. federal judge threw out a proposed class action accusing GWU of mismanaging workers' retirement savings, concluding that the person who filed the case gave up her right to sue as part of a 2016 settlement in a separate suit.

And in January 2019, Georgetown beat a proposed ERISA class action over its retirement plans' fees and investments.

Both the GWU and Georgetown cases are on appeal.

As for the Cornell case, a federal court in September partially granted motions for summary judgment from the defendants, tossing the bulk of the claims in the case.

Nancy Ross, co-chair of Mayer Brown's ERISA litigation practice group, told Law360 that many of these cases settle when they're handled by other firms.

However, Ross — a partner in the firm's Chicago office — said that she and Brian Netter, who is the other co-chair of Mayer Brown's ERISA litigation practice group, often don't settle the cases. She said that goes a long way in developing a favorable body of law that governs that area, which she said is critical in helping the firm stand out.

"There has been an onslaught of litigation concerning defined contribution plans over the past couple of decades," Ross said. "The vast majority of the cases either settle, or some do get dismissed on motions but a lot of the cases settle, and in some respects the concern with settlement is they don't develop the law. The difference that sets Brian and me apart: Our cases have not settled as much as they have been won."



Netter, a partner in the firm's D.C. office, said it is important to reinforce the basic understanding of fiduciary law, which is being mindful of industry practice ought to be sufficient to avoid litigation.

"The university ERISA cases reflect an attempt to extract settlements from universities that have been following industry customs," Netter said. "As a result, they are an attempt to modify the law indirectly through litigation."

Besides litigation, the firm focuses on pension investment and fiduciary duty advice, according to Maureen Gorman, head of Mayer Brown's U.S. employment and benefits group. One of the people at the firm focusing on the pension investment area was Lennine Occhino, Gorman said.

"The frontier for pension investment is in the area of defined contribution plans, and Lennine has done a great deal of work solving the regulatory issues involved in offering illiquid alternative investment funds to defined contribution plans," Gorman said.

Ross said there are around 25 lawyers at the firm dealing with benefits work in the U.S., adding that Mayer Brown has a substantial presence in D.C., Chicago, California and New York.

The firm also has a global benefits practice, Gorman said, including in the U.K.

Ross said that the benefits practice has a substantial presence at Mayer Brown, with Gorman adding that the benefits advisory work the firm does gives it a high profile.

Gorman said that in the last few years, the firm in general had a couple of promotions to partner and a couple additional associate hires in the benefits area, and it is in the market for more associates. She also said that business is booming in the area, and the firm hopes to bring in another lateral partner in the area soon.

"As a firm that is committed to providing a full range of legal services to multinational companies, and particularly on issues that touch upon financial services, benefits issues are going to arise for all of our clients in any number of circumstances," Netter said. "The firm's commitment to having transactional and litigation benefits attorneys is consistent with our positioning as a top-tier firm for multinational clients."

--Additional reporting by Emily Brill and Danielle Nichole Smith. Editing by Adam LoBelia.