

## Rising Star: Mayer Brown's Richard Nowak

By Anne Cullen

*Law360 (July 31, 2020, 5:02 PM EDT)* -- Mayer Brown LLP's Richard E. Nowak has a strong track record of steering clients through brand-new benefits issues, recently helping Northrop Grumman shake pension plan participants' novel claims over allegedly inaccurate payouts, landing him a spot among the benefits law practitioners under 40 honored by Law360 as Rising Stars.

### ***HIS BIGGEST CASES:***

Nowak is currently heading up the defense in a quartet of Employee Retirement Income Security Act class actions — with the help of partners Nancy Ross and Brian Netter — and he told Law360 that all four cases stand out to him as significant.

"They're all ERISA class actions that involve novel issues that are being addressed for the first time," he said, "and have the potential to affect the industry going forward."

In one case, participants of Northrop Grumman's pension plan are suing the company over what they claim are inaccurate statements and payouts. Several participants say they received inadvertent overpayments after they retired — to the tune of an extra \$1,000 or more a month — and when Northrop Grumman realized the mistake, it adjusted the monthly payments and requested that thousands be returned.

The case reflects a new trend in ERISA lawsuits, Nowak said, in which participants are challenging reductions in their pension benefits to the amounts their plans actually provide. It's one of the first lawsuits claiming a plan administrator violated ERISA's disclosure requirements when the record-keeper incorrectly calculated a participant's benefits, according to Nowak.

"Essentially, it's a test case to see if this sort of theory will stick," he said.



**Richard Nowak**  
Mayer Brown

Age: 35

Home base: Chicago

Position: Partner

Law school: University of Illinois  
College of Law

First job after law school: Mayer  
Brown

The case was thrown out at the district court level, but that decision is on appeal to the Ninth Circuit.

"That's one that could shake the landscape if the Ninth Circuit determines that there's an actionable claim for breach of fiduciary duty in that sort of circumstance," he said.

Three other ERISA class actions Nowak is handling — representing AT&T, Shell Oil Co. and Yale University — are similar bellwethers for novel legal theories.

"I think all of these cases are dealing with new, novel issues that have the potential to affect the legal industry and the legal standards going forward," Nowak said.

#### ***HIS PROUDEST MOMENTS:***

While Nowak said "winning a trial is always a proud moment" for him — as he noted that in the benefits arena, jury trials are "few and far between" — he said what makes him most proud is the guidance he's been able to offer younger attorneys and law students.

Nowak aims to give junior attorneys the opportunities he was offered early in his career, which the benefits expert said "set the stage" for him to progress.

In his early days at Mayer Brown, Nowak was tasked with helping out on a complex case for a Madrid-based energy client, and because of his ability to speak Spanish, he wound up taking on more of a leadership role in the case than he expected.

Nowak told Law360 that he grew enormously from the opportunity to do substantive work for a sophisticated client at the outset of his legal career, and tries to give younger attorneys that chance, too.

"Letting someone take their first deposition or letting someone stand up in court even if they're a junior associate can really have an impact on their career," Nowak said. "That's what makes me most proud beyond litigation successes like winning motions and winning at trial."

#### ***WHAT MOTIVATES HIM:***

Nowak said he enjoys the "people aspect" of the benefits arena.

"Everything our clients do in the benefits space has a direct impact on their employees," Nowak said. "For me, having met with and worked with a lot of plan fiduciaries and plan sponsors, it has become really apparent that they're all doing their best and acting in the best interests of their employees."

He said that he's motivated to help them achieve good outcomes for their workers by crafting creative solutions to complex benefits problems.

#### ***HOW HE EXPECTS BENEFITS LAW TO EVOLVE:***

While ERISA has been around for decades, Nowak said the industry is constantly changing.

"How you would administer your health plan or retirement plans five years ago is different than how you would administer them now," he said, "and that's going to continue."

Recently, he said there's been an uptick in legal challenges to the administration of 401(k) and 403(b) plans, with dozens filed this year alone. Nowak attributed this change to a "more sophisticated and

aggressive plaintiffs bar."

A growing number of firms outside of the established roster are tackling these issues, Nowak said. "The more plaintiffs firms that are focused on this, the more their theories change and evolve," he said.

— *As told to Anne Cullen*

*Law360's Rising Stars are attorneys under 40 whose legal accomplishments belie their age. A team of Law360 editors selected the 2020 Rising Stars winners after reviewing more than 1,300 submissions. Attorneys had to be under 40 as of April 30, 2020, to be eligible for this year's award. This interview has been edited and condensed.*

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