

ERISA Litigation Defense Team

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RELATED PRACTICES

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ERISA litigation has exploded in recent years as class action attorneys seek to add to or end run related securities cases. The recent economic downturn has generated an onslaught of ERISA "stock drop" and "excessive fees" lawsuits against essentially every surviving public financial company (and even against some that did not or may not survive).

For years, KMK has combined the substantive knowledge and extensive experience of our Employees Benefits Group with our Litigation Group in its ERISA Litigation Defense Team. The ERISA Litigation Defense Team handles all types of breach of fiduciary duty, prohibited transaction, and denial of benefits disputes — from individualized claims for long term disability, severance, or other benefits to class action claims involving company stock and investment management.

The ERISA Litigation Defense Team has particularized experience and a proven track record to efficiently defend "stock drop" and "excessive fees" litigation.

EXPERIENCE

- **Dudenhoeffer et al. v. Fifth Third Bancorp et al., Cons. Case No. 1:09-cv-538 (S.D. Ohio)**
Currently defending clients against "stock drop" claims related to 2008 financial meltdown.
- **Fish et al. v. Greatbanc Trust Co., et al., Case No. 1:09-cv-1668 (N.D. Ill.)**
ESOP litigation; currently defending clients against ERISA breach of fiduciary duty / prohibited transaction claims.
- **Hutchinson v. Fifth Third Bancorp, et al., 2005 WL 2493287 (S.D. Ohio) aff'd. 469 F.3d 583 (6th Cir. 2006), cert. denied, 551 U.S. 1145, 127 S.Ct. 3007 (June 25, 2007)**
Successfully defended breach of fiduciary duty claims invoking ERISA preemption.
- **Shirk et al. v. Fifth Third Bancorp et al., 2009 U.S. Dist. Lexis 90775 (S.D. Ohio Sept. 30, 2009)**
Summary judgment granted on ERISA excessive fees claims. Summary judgment granted on ERISA stock drop / company stock claims

PUBLICATIONS

- Court Tosses Fifth Third Workers' Fees Claim Filed Shortly After Limitations Period Expired, *BNA Pension and Benefits Daily*, October 6, 2009
- Employer Stock: Fifth Third's Retention of Employer Stock Wasn't a Fiduciary Breach, Court Decides, *BNA Pension and Benefits Daily*, March 3, 2009