

ERISA, Employee Benefits & Trust Litigation

Bailey Glasser handles class actions and high stakes individual actions involving employee pension benefits—including employee stock ownership plans (ESOPs), 401(k) plans and other defined contribution or individual account plans, and traditional defined benefit pension plans—and trust litigation involving family and other private trusts. We litigate these actions throughout the United States under the federal employee benefits law known as the Employee Retirement Income Security Act (ERISA) and under state trust law.

Our clients include employees, former employees, retirees, and trust beneficiaries, as well as businesses and other professionals victimized by fraud, investment mismanagement, hidden and undisclosed fees, and illegal benefit cutbacks. We have recovered hundreds of millions of dollars for our clients in litigation claiming breaches of fiduciary duty, prohibited transactions, and other violations of the law. Our fiduciary duty practice also includes claims in the growing area of ERISA welfare benefit plan litigation, such as claims challenging systematic denials of treatments under medical plans under policies that violate ERISA.

ESOPs

Bailey Glasser focuses on ESOPs that invest in private companies. Federal pension law provides generous tax subsidies to shareholders and companies that sell their stock to an ESOP. In exchange for these tax benefits, federal law requires that an independent trustee decides whether the stock transaction should happen. Independent trustees are supposed to act like a hypothetical prudent buyer in the market for a private company. Unfortunately, in our experience, these trustees do not conduct adequate due diligence, do not have a sophisticated understanding of corporate transactions, and are more interested in collecting trustee fees paid by the employer than doing their job.

The US Department of Labor has long identified ESOPs as an enforcement priority due to rampant abuses by plan service providers, and the firm has worked closely with the DOL on lawsuits. Bailey Glasser's ESOP practice strives to obtain real money for our clients and create real changes in the industry.

Multi-Trust Class Actions

Bailey Glasser's ERISA team has deep experience with complex, multi-plan class actions involving esoteric trading practices and opaque financial products. We represented hundreds of retirement plans in class actions against major financial institutions engaged in conflicted and imprudent securities lending practices that cost the plans millions. In one such case, against Northern Trust Company in Chicago federal court, we recovered \$36 million for our clients. We also successfully prosecuted a complex, unlawful tax-fee against BNY Mellon on behalf of thousands of family trusts, ultimately recovering millions for our clients. Currently, we are prosecuting an ERISA class action against Intel Corp. involving poor performing hedge funds and private equity investments.

401(k) Plans

Bailey Glasser has a long history of representing employees and retirees harmed by hidden or excessive fees, or imprudent investments, in their 401(k) plans. Our experienced team understands the various ways financial-services companies can profit from workers' hard-earned retirement savings. We have successfully litigated at all levels, including the United States Supreme Court, recovered over \$100 million on behalf of our clients, and provided meaningful improvements to retirement plans across the country.

Pension Plans

Our team represents plan participants and beneficiaries in claiming the benefits that they were promised, and earned, under the written terms of their pension plans. In addition, plan sponsors are prohibited by law from amending qualified plans to decrease participants' "accrued benefits" and from eliminating or reducing certain "protected benefits." We have attorneys experienced in "anti-cutback rule" litigation. Bailey Glasser has recently been spearheading litigation alleging that actuarial assumptions used to determine optional forms of benefits or early retirement benefits are outdated. We are seeking losses to participants caused by use of outdated actuarial assumptions that cause benefits to be paid that are not actuarially equivalent to the annual monthly benefit (typically expressed as a single life annuity) payable at normal retirement age.

Trust Litigation

We understand how trustees, money managers, and investment advisors operate, and know how to spot hidden fees and mismanagement. Bailey Glasser recently finalized a nationwide class action on behalf of private family trusts who were being charged hidden fees by a large bank.

Health and Medical Plans

Our team members collectively have decades of experience in ERISA fiduciary duty litigation. We represent participants and beneficiaries in health care and medical plans to challenge systematic denials of treatments under policies that violate ERISA, and violations of mental health parity law.

Experience

Making the Law

- Won a unanimous decision in the United States Supreme Court in *Sulyma v. Intel Corp*, a case brought on behalf of participants in Intel's 401(k) plan concerning alleged imprudent investments in several of the Plan's investment options. The Supreme Court decision set new standards for ERISA's statute of limitations.
- Won a \$30 million trial judgment in *Brundle v. Wilmington Trust*, a case involving multiple breaches of duty by the trustee and complex valuation issues in an ESOP transaction; won a complete affirmance by the US Court of Appeals for the Fourth Circuit, establishing new law on ESOPs that has been cited nationwide.
- Obtained a precedent-setting decision by the US Court of Appeals for the Seventh Circuit in *Allen v. GreatBanc Trust Co.*, which established important pleading standards in ESOP cases.
- Obtained groundbreaking order that ESOP-owned company's indemnification of ESOP trustee violated ERISA in *McMaken v. Chemonics*.

ESOPs

- Won a \$30 million trial judgment in *Brundle v. Wilmington Trust*, a case involving multiple breaches of duty by the trustee and complex valuation issues in an ESOP transaction; won a complete affirmance by the US Court of Appeals for the Fourth Circuit, establishing new law on ESOPs that has been cited nationwide.
- Settled an ESOP lawsuit for \$19.5 million, in *Jessop v. Larsen*, working closely with the US Department of Labor; yielded an average class member recovery of over \$30,000
- Recovered \$19.5 million for ESOP participants just before trial. *Choate v. Wilmington Trust*
- Recovered \$12 million for ESOP participants after one-week trial. *Nistra v. Reliance Trust*
- Recovered \$6.25 million for ESOP participants. *Casey v. Reliance Trust*
- Recovered \$5 million for ESOP participants even though plaintiffs had signed releases. *Fiorito v. Wilmington Trust*

401(k) Plans

- Recovered \$17 million for plan participants from Neuberger Berman in case alleging imprudent investment in proprietary fund. *Bekker v. Neuberger*
- Settled a lawsuit against Franklin Templeton for \$26 million where the plaintiffs alleged that Franklin Templeton stuffed its own employee 401(k) plan with Franklin Templeton mutual funds despite a conflict of interest. *Cryer v. Franklin*
- Settled a lawsuit against Fidelity Investments for \$12 million where the plaintiffs alleged that Fidelity stuffed its own employee 401(k) plan with Fidelity mutual funds. *Bilewicz v. Fidelity*

Multi-Trust Financial Class Actions

- Settled a complex securities lending action for \$36 million against Northern Trust on behalf of hundreds of retirement plans across the country. *Diebold v. Northern Trust*
- Obtained class certification of hundreds of retirement plans in complex securities lending that settled for \$10 million. *Glass Dimensions v. State Street*
- Settled a multi-state class action against BNY Mellon for \$10 million on behalf of hundreds of private family trusts who had been charged hidden fees. *Henderson v. BNY Mellon*
- Prosecuting multi-plan class action alleging imprudent investments in hedge funds and private equity that cost plans billions of dollars. Won groundbreaking case in Supreme Court that allowed case to proceed. *Sulyma v. Intel Corp.*

News & Insights

Judge Allows ERISA Class Action Against Huntington Ingalls to Proceed to Trial
09.30.2020

First In The Nation Actuarial Equivalence Case Moves Toward Trial
08.31.2020

McBride & Son Executives Must Face Lawsuit Alleging They Ripped Off Their Own Employees in Selling Themselves the Employee Owned Company at a Steep Discount
08.25.2020

Bailey Glasser Lawyers Named to 2021 Best Lawyers
08.20.2020

Bailey Glasser Seeks Final Approval of \$19.5 Million ESOP Settlement with Wilmington Trust
08.17.2020

Fourth Circuit Overturns Ruling from District Court in Gannett Company ERISA Case
08.11.2020

Bailey Glasser Receives Final Approval on \$6.25 Million Settlement with Reliance Trust to End ERISA Class Action
08.06.2020

Bailey Glasser Defeats Motions To Dismiss And Transfer On Behalf Of Nation Safe Drivers Employees
07.21.2020

Bailey Glasser Receives Final Approval for \$13 Million Settlement to End Bradford Hammacher ESOP Lawsuit
06.23.2020

Bailey Glasser Defeats Motion To Dismiss On Behalf of St. Luke's Health System Employees
06.23.2020

Mark Boyko Speaking at ABA Webinar Series
06.12.2020

Bailey Glasser Announces \$17 Million Settlement With Neuberger Berman To End ERISA Class Action
06.10.2020

Bailey Glasser Announces \$19.5 Million Settlement With Wilmington Trust To End ERISA Class Action
04.17.2020

Bailey Glasser Announces \$6.25M Settlement With Reliance Trust Co. To End ERISA Class Action Lawsuit
03.18.2020

Bailey Glasser Named Legal Lions of the Week by *Law360*
03.09.2020

Judge Allows ERISA Class Action Against Huntington Ingalls to Proceed
02.21.2020

Judge Allows ERISA Class Action Against Rockwell Automation to Proceed
02.14.2020

Gregory Porter Speaking at ABA Employee Benefits Committee Meeting
02.07.2020

Bailey Glasser Announces Promotions for 2020
02.04.2020

ERISA Class Action Lawsuit Against Partners Healthcare Moves Forward
01.31.2020

Judge Approves \$5 Million Settlement in Wilmington Trust ESOP Lawsuit
01.27.2020

Judge Approves \$13 Million Settlement to End Bradford Hammacher ESOP Lawsuit
01.15.2020

Mark Boyko Speaking at ABA Employees Benefits Symposium
01.17.2020 – 01.18.2020

Law360 Quotes Mark Boyko on Recent ERISA Related Cases Before US Supreme Court
01.09.2020

Law360 Quotes Mark Boyko on Ninth Circuit Decision to Compel Arbitration
12.27.2019

US District Court Grants Class Certification in Choate v. Wilmington Trust
12.12.2019

Bailey Glasser Announces \$2.4 Million Settlement With Allina Health To End ERISA Class Action
11.07.2019

Bailey Glasser Defeats Motion To Dismiss On Behalf of McBride & Sons Employees
10.02.2019

Bailey Glasser Wins Summary Judgment in Employee Stock Ownership Plan Dispute
08.23.2019

Bailey Glasser Attorney Gregory Porter Quoted on Groundbreaking ERISA 401(k) Arbitration
Ruling
08.22.2019

Bailey Glasser Representing Pensioners in American Airlines ERISA Suit
08.13.2019

Bailey Glasser's ERISA Team Breaks New Ground
07.08.2019

Law360 Quotes Mark Boyko On The Third Circuit Court of Appeal's Decision On ERISA Suit
06.21.2019

Law360 Quotes Mark Boyko on Supreme Court's Decision to Review ESOP Case
06.05.2019

Neuberger Berman Employees Notch Win In 401(k) Self-Dealing Lawsuit
05.10.2019

Bailey Glasser Wins Key Motion in Employee Stock Ownership Plan Dispute
04.03.2019

Bailey Glasser Secures Appellate Win in Employee Stock Ownership Plan Dispute
03.25.2019

Monavie – Jessop v. Larson Settlement
08.06.2018

Bailey Glasser ERISA Team Defeats Motion to Compel Arbitration of ESOP Lawsuit
07.25.2018

All My Sons Moving & Storage Lawsuit Claims Employees 'Fleeced' By ESOP Charade
07.02.2018

Franklin Templeton Employees Expand Claims Involving Company 401(k) Plan
04.11.2018

Edward Jones Employees Score In Case Involving Company 401(k) Plan
03.28.2018

401(k) Participants Survive Motion to Dismiss ERISA Case Against Providence Health
03.23.2018

Bailey Glasser Defeats Motion Disputing Constitutional Standing of ESOP Participants
02.21.2018

Bailey Glasser Wins Class Certification on Behalf of The Bradford Hammacher Group, Inc. Employee Stock Ownership Plan's Participants
02.19.2018

Bailey Glasser Welcomes New Attorneys
02.14.2018

Federal Judge Certifies Class in Citigroup 401(k) ERISA Case
11.27.2017

Federal Judge Approves \$5 Million Settlement In ERISA Case Against TIAA
10.24.2017

Phillips 66 Retirees Sue Over Investment Offerings
10.16.2017

Gregory Porter Presenting at ERISA Litigation Conference
10.13.2017

Judge Orders Trustee to Pay \$30 Million to ESOP
03.15.2017

Greg Porter Speaking at National Forum on ERISA Litigation
02.17.2017

Bailey Glasser ERISA Group files Class Action Lawsuit Against Wilmington Trust, N.A.
01.28.2017

Judge Allows ERISA Class Action Lawsuits Against Employers Over 401(k) Plans to Proceed
01.17.2017

Bailey Glasser Seeks Preliminary Approval of \$19.8 Million ESOP Class Action Settlement
11.16.2016

Bailey Glasser Named One Of Top ERISA Firms In The Nation
11.10.2016

Bailey Glasser Wins Complete Reversal in Seventh Circuit ERISA Case
10.07.2016

Mark Boyko Quoted on ERISA 401(k) Class Action Against Edward Jones
09.06.2016

ERISA Class Action Goes Forward Against MetLife
08.26.2016

\$19.8 Million ESOP Settlement Negotiated In MonaVie Case
08.23.2016

Bailey Glasser Wins Class Certification on Behalf of Mona Vie Employee Stock Ownership Plan Participants
12.11.2015

Judge Approves \$11 Million Settlement With Principal Financial in ERISA Class Action
11.24.2015

Gregory Porter Quoted in NY Times Regarding Class Action Lawsuit Against Intel Corporation
11.23.2015

Bailey Glasser Files Class Action Against Intel Corporation
10.30.2015

Gregory Porter Speaking at Annual ERISA Conference
10.21.2015

Bailey Glasser Lawyers Recognized by The Best Lawyers in America 2016
08.18.2015

Bailey Glasser Settles Pair of Class Action Lawsuits for \$60 Million
02.19.2015

Bailey Glasser Files \$186 Million Class Action Lawsuit Against Bankers Trust
12.18.2014

Federal Judge Approves \$12 Million Retirement Plan Class Action Settlement Against Fidelity Investments
10.17.2014

Gregory Porter to argue for final approval against Fidelity Investments
09.24.2014

Court approves \$10 million settlement in ERISA class action
04.20.2014

How Can We Help?

General Case and Matter Inquiries