



## Michael Graham

Partner

Chicago  
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### PRACTICES

- Labor & Employment
- ERISA Litigation

### EDUCATION

- Valparaiso University School of Law, J.D., Magna Cum Laude, 1995
- University of Illinois, A.B., 1992

### ADMISSIONS

- Illinois
- Indiana
- Illinois USDC, Central District
- Illinois USDC, Northern District
- Illinois USDC, Southern District
- Indiana USDC, Northern District
- Michigan USDC, Western District
- US Ct Appeals, 2nd Circuit (CT, NY, VT)
- US Ct Appeals, 3rd Circuit (DE, NJ, PA, Virgin Islands)
- US Ct Appeals, 5th Circuit (LA, MS, TX)
- US Ct Appeals, 6th Circuit (KY, MI, OH, TN)
- US Ct Appeals, 7th Circuit (IL, IN, WI)
- US Ct Appeals, 8th Circuit (AR, IA, MN, MO, NE, ND, SD)
- US Supreme Ct
- Wisconsin USDC, Eastern District
- Wisconsin USDC, Western District

Throughout Michael Graham's career, his focus has been dedicated to handling employment, fiduciary, regulatory, employee benefits and ERISA litigation matters. He frequently advises plan administrators, fiduciaries and sponsors on compliance and disputes.

Michael is experienced in the litigation and transactional sides of employee benefits work and has served as first chair on numerous Employee Retirement Income Security Act (ERISA) and employment cases, including fiduciary breach class actions and victories in the United States Courts of Appeal. He has litigated Title VII and multiemployer pension plan disputes, 401(k) plan class actions on administrative fees, and fiduciary and regulatory disputes, to name a few.

He advises on Pension Benefit Guaranty Corporation (PBGC) reporting requirements and withdrawal liability. He also represents pension plans, including employee stock ownership plans (ESOPs), before the U.S. Department of Labor and Internal Revenue Service. He advises plan administrators and employers on proper compliance with ERISA claims and appeals procedures, helping them minimize liability exposure.

When litigation is necessary, Michael regularly handles fiduciary breach, fiduciary and valuation, pension calculation, investment and administrative fee and complex welfare cases in federal and state courts nationwide. His practice involves significant ESOP litigation defense of fiduciaries, trustees, plan sponsors and shareholders. Along with retirement class action work involving Section 401(k) and 403(b) plans, he also defends clients in a variety of multi-employer pension plan matters involving withdrawal liabilities.

Michael is a well-known speaker on ERISA and ESOP issues nationally. He is a member of The ESOP Association's Legislative & Regulatory Committee.

Previously, he worked at several major law firms in the labor and employment, employee benefits and ERISA litigation arena and clerked for the Honorable Allen Sharp, Chief Judge of the U.S. District Court for the Northern District of Indiana. A native of Chicago's south suburbs, he was a first-generation college graduate and the first in his family to achieve a

post-undergraduate degree.

#### **Affiliations**

- ESOP Association, Legislative & Regulatory Advisory Committee, 2018-2024
- American Bar Association, speaker at ABA ERISA Litigation conferences, 2005-2017
- Chicago Bar Association, speaker at annual ERISA review

#### **Recognitions**

- Legal 500, Labor and Employment: ERISA Litigation, 2014, 2018
- Best Lawyers in America, Employee Benefits (ERISA) Law (2021-2025)
- Illinois Super Lawyers, ERISA/Employee Benefits, 2011-2013, 2016-2019

#### **Experience**

- **Obtained release of all liability sought by an agency for an employer in an ERISA litigation suit and agency dispute. Potential damages were valued at \$100 million.**
- **Obtained issuance of a no suit letter for an employer in a Department of Labor ESOP and ERISA investigation. Potential damages were valued at \$25 million.**
- **Successfully represented various plan administrators in multimillion-dollar ERISA litigation lawsuits involving fiduciary breach, estoppel and prohibited transactions in federal court and before five circuits of the US Court of Appeals.**
- **Defended ESOP trustees, selling shareholders and employers in class action lawsuits challenging valuation and transactional issues with hundreds of millions of dollars of potential liability.**
- **Advised plan fiduciaries in fiduciary breach and prohibited transaction lawsuits challenging benefit plan compliance and plan investment decisions.**
- **Advised and defended employers in multiemployer welfare and pension plan litigation, seeking to limit the liability sought by governmental agencies or pension funds, including cases seeking withdrawal liability by the Central States multiemployer pension fund.**
- **Counseled clients in complex ERISA issues related to plan terminations and withdrawals from multiemployer plans and the termination of employer-sponsored plans.**
- **Guided several large employers through the IRS' Voluntary Correction Program seeking to limit liability for plan administration failures.**
- **Defended plan administrators and challenges to benefit claim determinations involving qualified and non-qualified plans.**
- **Litigated several out-of-network health care provider lawsuits, defending self-funded medical plans in disputes involving benefit payment models and benefit decisions.**
- **Defended plan sponsors in challenges related to reductions to**

retiree medical benefit plans.

- **Advised several large employers, including a significant ESOP-owned company, through a large administrative benefit claim review process involving hundreds of potential plaintiffs.**

#### **Publications**

- Co-Author, "INSIGHT: PBMs Facing More Than ERISA Suits as RICO, Antitrust, State Law Claims Grow," *Bloomberg Law* November 18, 2019
- Co-Author, "INSIGHT: Exclusive Benefit – An Analysis of PBMs as Potential ERISA Fiduciaries," *Bloomberg Law* October 4, 2019
- Co-Author, "8 Best Practices for Handling ERISA Benefit Claims," *Law360* September 27, 2019
- Co-Author, "ERISA Benefit Claim Administration Best Practices," *LexisNexis* September 13, 2019
- Co-Author, "Follow the Scripts – Trends in ERISA Litigation against PBMs," *Bloomberg Law* August 7, 2019

#### **Presentations**

- Speaker, "ERISA Appeals," ABA-CLE ERISA Litigation Conference May 18, 2019