

insights

TYPES NOT MAPPED YET October 30, 2024 | TTR not mapped yet | Michael T. Graham

Michael Graham Discusses Nicotine Surcharge Litigation

Thompson Coburn partner [Michael Graham](#) was quoted in a recent *Law360* article on the increasing number of lawsuits accusing employers of violating federal nondiscrimination laws through nicotine surcharges.

"It seems like this is the new class action issue of the day," said Michael. He said the recent uptick in nicotine surcharge litigation was reminiscent of previous waves of suits that benefits attorneys have fielded on other issues, such as class action suits targeting COBRA notices or challenges to the mortality tables employers use in pension conversions.

"I think any of the wellness plans that include a tobacco surcharge are going to be facing the possibility of a class action lawsuit," he added.

Michael also highlighted the ongoing legal battle between Sodexo and its employees over a similar surcharge. He emphasized whether ERISA claims can be pushed into arbitration "is a hot button question right now – not only for tobacco surcharge issues, but for ESOPs and other ERISA claims."

[Click here](#) to read the full article.

Michael also recently co-authored an article related to this trend, available [here](#).

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