

# TABLE OF CONTENTS

---

PREFACE TO THE FOURTH EDITION .....	III
TABLE OF CASES .....	XIX
TABLE OF STATUTES .....	XXIX
<b>Chapter 1. Introduction to Employee Benefits Law .....</b>	<b>1</b>
A. Employee Benefits Law in Your Future Practice.....	1
B. Historical Background .....	3
1. History of the Regulation of Employee Benefit Plans.....	3
2. Legislative History of ERISA.....	6
a. Vesting.....	11
b. Funding .....	12
c. Fiduciary Responsibility and Disclosure.....	13
3. Public Policy Goals of ERISA.....	15
Notes and Questions .....	16
C. Employee Benefit Plans in the Modern Workplace .....	17
D. Employee Benefits Law Today: Public Policy Issues .....	18
1. Federal Tax Policy and Employee Benefit Plans .....	18
2. Demographic Trends: Employee Benefit Plans and Public Benefit Programs .....	19
3. The Scope and Cost of Retirement and Health Care Plan Coverage.....	23
4. Federalism and Preemption of State Law .....	25
E. Studying and Researching Employee Benefits Law .....	25
F. Discussion Question for Chapter One.....	29
<b>Chapter 2. Plan Operation and Administration .....</b>	<b>31</b>
A. The Statutory Structure of Erisa and Its Regulating Federal Agencies .....	31
B. Types of Plans Subject to ERISA .....	32
1. What Is a “Plan”?.....	35
Donovan v. Dillingham .....	36
Notes.....	40
Musmeci v. Schwegmann Giant Super Markets, Inc.....	41
Notes and Questions .....	45
2. Who Is an “Employee”? .....	45
Nationwide Mutual Insurance Co. v. Darden.....	45
Notes and Questions .....	49
3. Who Is a Spouse?.....	52
C. Plan Documents, Trust Requirements and Amendment Procedures .....	54
1. Plan Documents and the Written Instrument Rule.....	54
2. Trust Requirement for Plan Assets and Types of Trustees.....	56
3. Plan Amendment Procedures .....	57

	Curtiss-Wright Corp. v. Schoonejongen .....	58
	Notes and Questions .....	65
D.	Plan Reporting and Disclosure Requirements .....	66
	1. Legislative History and Policy Objectives .....	66
	2. General Reporting and Disclosure Requirements .....	68
	Glocker v. W.R. Grace & Co. ....	76
	Notes and Questions .....	80
	3. Note on Reporting and Disclosure Requirements Unique to Health Care Plans .....	81
	4. Note on Estoppel Claims .....	85
E.	Discussion Questions for Chapter Two .....	91
	Question One .....	91
	Question Two .....	92
	Question Three .....	92
	Question Four .....	93
	Question Five .....	93
	<b>Chapter 3. Qualified Retirement Plans.....</b>	<b>95</b>
A.	Perspectives on Qualified Retirement Plans .....	96
	1. National Retirement Policy: The Twin Problems of Elderly Poverty and Retirement Plan Coverage.....	96
	2. Qualified Plans in Your Future Practice .....	100
B.	Introduction to Qualified Retirement Plans.....	102
	1. Comparison of the Code and ERISA Requirements for Qualified Plans.....	102
	2. Vocabulary and Basic Taxation Principles .....	105
	a. Qualified Retirement Plans Versus Nonqualified (Top Hat) Plans .....	105
	b. Statutory Criteria for a Top Hat Plan Under ERISA.....	108
	c. The Income Tax Treatment of Qualified Plans and Nonqualified (Top Hat) Plans .....	111
	d. Another Advantage of Qualified Plans: Benefit Security .....	112
	e. Other Tax-Deferred Vehicles for Retirement Savings .....	113
	3. Investment Fundamentals.....	115
	a. The Time Value of Money .....	115
	b. The Magic of Compounded Investment Earnings .....	118
	c. Investment Diversification.....	120
	Problems on Investment Fundamentals .....	122
	Problem One .....	122
	Problem Two .....	122
C.	Types and Characteristics of Qualified Plans .....	123
	1. Defined Contribution (Individual Account) Plans and Defined Benefit Plans.....	123
	Problems on Types of Qualified Plans.....	130
	Problem One .....	130
	Problem Two .....	131
	2. The Growth of Defined Contribution Plans .....	131

D.	Age, Service and Vesting Requirements.....	134
1.	Introduction .....	134
2.	Age and Service Rules for Eligibility .....	135
3.	Vesting Rules .....	138
	Notes.....	143
	Problems on the Age, Service and Vesting Requirements.....	145
	Problem One .....	145
	Problem Two .....	146
E.	Benefit Accrual Requirements.....	147
1.	Plan Amendments, Accrued Benefits and the Anti-Cutback Rule .....	148
a.	Benefits Protected by the Anti-Cutback Rule.....	150
b.	Plan Amendments Reducing the Rate of Future Benefit Accrual.....	155
c.	Diversification Rights for Accounts Invested in Company Stock .....	155
d.	Eligibility, Vesting and Benefit Accrual During Periods of Active Duty Military Service .....	156
	Problem on Benefit Accrual Requirements.....	157
2.	Note on Cash Balance Plans.....	157
F.	Code Requirements for Qualified Retirement Plans .....	163
1.	The Nondiscrimination Requirements.....	163
a.	Definitions.....	165
b.	Code Section 410(b): The Minimum Coverage Rules .....	172
	Problems on Code Section 410(b).....	176
	Problem One.....	176
	Problem Two .....	178
	Notes.....	179
c.	Code Section 401(a)(4): Nondiscrimination in Benefits or Contributions .....	181
	Problem on Code Sections 401(a)(4) and 401(a)(17).....	187
	Notes.....	187
d.	Code Sections 401(k) and 401(m) Tests.....	189
	Problem on ADP Testing and Code Section 401(a)(17) .....	193
	Notes.....	194
e.	Code Section 416: The Top Heavy Rules.....	200
	Problem on Top Heavy Plans.....	203
2.	Limits on Qualified Plan Benefits for Individuals and Employer Deductions .....	204
a.	Individual Limits Under Code Section 415.....	205
b.	Employer Deduction Limits Under Code Section 404.....	208
c.	Illustration: The Hypothetical Small Business Client.....	210
	Problem on Code Sections 415 and 404.....	213
	Notes.....	213
3.	Distributions, Rollovers and Participant Loans.....	216
a.	The Vocabulary of Payments from Qualified Plans .....	216
b.	Distributions and Direct Rollovers.....	218

c.	Plan Loans .....	221
d.	Required Minimum Distributions .....	223
e.	Special Distribution Forms for Married Participants .....	225
	Lorenzen v. Employees Retirement Plan of the Sperry and Hutchinson Co. ....	226
	Note .....	229
	Problem on Distributions, Rollovers, and Participant Loans .....	230
4.	Mechanisms to Avoid Plan Disqualification .....	231
G.	Qualified Plan Issues in Bankruptcy and Divorce .....	234
1.	Bankruptcy and the Anti-Alienation Rule .....	234
2.	Qualified Domestic Relations Orders .....	238
	Dickerson v. Dickerson .....	239
	Notes .....	245
	Problems on the Anti-Alienation Rule .....	248
	Problem One .....	248
	Problem Two .....	249
H.	Qualified Plan Issues in the Representation of Corporate Clients .....	249
1.	Plan Mergers, Asset and Liability Transfers, and Spin-Offs .....	250
2.	Plan Terminations .....	252
	a. Standard Terminations .....	253
	b. Distress Terminations .....	254
	c. The Future of the PBGC .....	255
	d. Partial Terminations of Single Employer Plans .....	257
3.	Multiemployer Plans, Employer Withdrawal Liability and Delinquency Actions .....	260
	Central States, Southeast and Southwest Areas Pension Fund v. Gerber Truck Service, Inc. ....	262
	Central States, Southeast and Southwest Areas Pension Fund v. Independent Fruit and Produce Co. ....	274
	Notes and Questions .....	284
I.	Discussion Questions for Chapter Three .....	285
	Question One .....	285
	Question Two .....	285
	Question Three .....	285
	Question Four .....	285
	Question Five .....	285
	Question Six .....	286
	<b>Chapter 4. Welfare Benefit Plans .....</b>	<b>287</b>
A.	Perspectives on Welfare Benefit Plans .....	288
1.	The National Health Care Insurance System .....	288
2.	Historic National Health Care Reform .....	290
	Questions .....	298
3.	Welfare Benefit Plans in Your Future Practice .....	298
B.	Introduction to Welfare Benefit Plans .....	300
1.	Types of Welfare Benefit Plans and Other Employee Benefits .....	300

2.	The Income Tax Treatment of Welfare Benefit Plans.....	303
3.	Cafeteria (Code Section 125) Plans .....	305
4.	Code Nondiscrimination Requirements for Welfare Benefit Plans.....	307
5.	The Vocabulary of Health Care Plans.....	308
	Question .....	309
6.	Innovation: Consumer-Driven Health Care .....	309
C.	Insured and Self-Insured Health Care Plans.....	314
1.	The Savings and Deemer Clauses of ERISA Section 514 .....	314
	Metropolitan Life Insurance Company v. Massachusetts .....	314
	FMC Corp. v. Holliday .....	321
	Notes and Questions .....	328
2.	How Self-Insured Health Care Plans Work (and Why They Cost Less) .....	329
	American Medical Security, Inc. v. Bartlett .....	330
	Notes.....	336
D.	The Alphabet Soup Requirements for Group Health Care Plans .....	338
1.	COBRA and OBRA .....	339
a.	Overview of COBRA .....	339
	Holford v. Exhibit Design Consultants .....	345
b.	Overview of OBRA.....	350
2.	HIPAA .....	352
a.	Nondiscrimination Requirements .....	352
b.	The Role of the HIPAA in National Health Care Reform .....	353
c.	Health Information Privacy .....	355
3.	Targeted Federal Reforms: 1996–2008 .....	358
a.	NMHPA.....	358
b.	WHCRA.....	359
c.	GINA.....	360
d.	MHPAEA.....	360
4.	Affordable Care Act .....	361
a.	Requirements for Maintaining Grandfathered Plan Status..	365
b.	Coverage of Essential Health Benefits.....	367
c.	Coverage Requirements for Dependents and Adult Children	369
d.	Prohibitions on Rescission of Coverage.....	369
e.	Automatic Enrollment Requirements for Very Large Employers.....	370
f.	Additional Requirements for Non-Grandfathered Plans .....	370
g.	Guaranteed Issue and Renewability for Group Health Insurance Policies .....	373
h.	Minimum Essential Coverage and the Employer and Individual Mandates .....	373
i.	Challenges to the Affordable Care Act.....	380
	National Federation of Independent Business v. Sebelius ....	381
	Questions.....	400
	Burwell v. Hobby Lobby Stores, Inc. ....	401
	Notes and Questions.....	431

	Questions on the ACA .....	432
5.	Enforcement of the Federal Requirements for Group Health Plans.....	434
E.	Amending or Terminating Welfare Benefit Plans .....	434
	McGann v. H & H Music Co. ....	435
	Notes and Questions .....	441
F.	Welfare Benefit Plans and Other Federal Laws .....	441
1.	Americans with Disabilities Act .....	442
2.	Title VII and the Pregnancy Discrimination Act .....	445
3.	Family and Medical Leave Act .....	446
	Problems on FMLA, PDA and COBRA .....	450
4.	Medicare as Secondary Payer Rules .....	452
5.	Uniformed Services Employment and Reemployment Rights Act.....	455
6.	Age Discrimination in Employment Act .....	455
G.	Retiree Health Care Plans and ERISA Litigation .....	458
1.	The Impact of Financial Accounting Standards on Retiree Health Care Plans .....	458
2.	The Evolution of Retiree Health Care Plan Claims in ERISA Litigation.....	459
	Bland v. Fiatallis North America, Inc. ....	462
	Notes and Questions .....	471
H.	Discussion Questions for Chapter Four.....	473
	Question One .....	473
	Question Two.....	473
	Question Three .....	473
	Question Four.....	473
	<b>Chapter 5. Fiduciary Duties and Prohibited Transactions .....</b>	<b>475</b>
A.	Overview of ERISA's Fiduciary Responsibility Provisions.....	475
B.	Who Is an ERISA Fiduciary?.....	475
	Varity Corporation v. Howe.....	477
	Notes and Questions .....	491
	Pegram v. Herdrich .....	493
	Notes and Questions .....	504
C.	Fiduciary and Co-Fiduciary Responsibilities .....	505
1.	Legislative History .....	505
2.	Illustrations of Fiduciary and Co-Fiduciary Responsibilities .....	506
a.	Overview of Fiduciary Duties .....	506
b.	The Duty of Loyalty (Exclusive Benefit Rule) .....	508
c.	The Duties of Prudence and Prudent Diversification of Plan Assets.....	514
d.	Fiduciary Responsibilities and Social Investing.....	521
e.	The Duty to Follow (or Disregard) Plan Terms .....	523
f.	Co-Fiduciary Duties.....	526
g.	Indemnification of Fiduciaries and Fiduciary Liability Insurance.....	529

3.	Note on the Duty to Inform.....	530
	Question .....	536
	Problems on Fiduciary and Co-Fiduciary Responsibilities.....	537
	Problem One .....	537
	Problem Two .....	538
D.	Prohibited Transactions and Exemptions .....	538
1.	Overview of the Prohibited Transaction Rules.....	539
a.	Definition of a Party in Interest .....	539
b.	Party in Interest Prohibited Transactions.....	539
c.	Fiduciary Prohibited Transactions.....	540
d.	Prohibited Transactions Involving Qualified Plans .....	541
e.	Restrictions on Plan Investments Involving Employer Securities or Employer Real Property.....	542
f.	Exemptions .....	542
2.	Legislative History .....	543
	Notes and Questions .....	548
3.	Supreme Court Interpretations.....	549
	Commissioner v. Keystone Consolidated Industries, Inc. ....	549
	Note .....	554
	Lockheed Corporation v. Spink .....	555
	Notes and Questions .....	562
	Problem on Fiduciary Duties and Prohibited Transactions .....	563
E.	Emerging Fiduciary Issues in 401(k) Plans .....	564
1.	Company Stock and 401(k) Plans.....	564
2.	Participant Investment Behavior in 401(k) Plans .....	568
a.	The History and Evolution of the Participant-Directed 401(k) Plan .....	568
b.	Research Studies Concerning Financial Literacy and Investment Decisions .....	570
d.	The Role of Financial Education in Improving Retirement Saving.....	574
	Question .....	575
3.	Fees and Expenses in 401(k) Plans.....	575
	Question .....	582
4.	Trends in 401(k) Plan Litigation .....	582
	Fifth Third Bancorp v. Dudenhoeffer.....	584
	Notes and Questions .....	596
F.	Discussion Questions for Chapter Five.....	597
	Question One .....	597
	Question Two.....	597
	Question Three .....	597
	Question Four .....	597
	<b>Chapter 6. Civil Enforcement Actions.....</b>	<b>599</b>
A.	Overview of ERISA's Civil Enforcement Provisions .....	599
B.	The "Nuts and Bolts" of ERISA Litigation .....	600
1.	Federal Court Jurisdiction and Removal.....	603

	Metropolitan Life Insurance Co. v. Taylor.....	603
	Notes and Questions .....	607
2.	Statute of Limitations, Right to Jury Trial and Attorney's Fees ..	609
C.	Section 502(a)(1)(B) Claims: Judicial Review of Claims for Plan Benefits .....	613
1.	Department of Labor Regulations Governing Claims Procedures.....	614
2.	Illustrations of Claims Litigation.....	616
3.	The Standard of Judicial Review.....	623
	Firestone Tire & Rubber Co. v. Bruch .....	623
	Metropolitan Life Insurance Co. v. Glenn .....	630
	Notes and Questions .....	641
4.	Practical Considerations in Claims Litigation .....	645
	Question .....	649
D.	Section 502(a)(2) Claims: Breach of Fiduciary Duty.....	650
1.	Fiduciary Liability.....	651
	Massachusetts Mutual Life Insurance Co. v. Russell.....	652
	Notes and Questions .....	662
	LaRue v. DeWolff, Boberg & Associates, Inc. ....	664
	Notes and Questions .....	671
2.	Measuring Investment Losses.....	672
	Donovan v. Bierwirth .....	672
	Notes and Questions .....	676
E.	Section 502(a)(3) Claims: The "Catch-All" Category.....	681
1.	Claims Against Nonfiduciaries.....	683
	Mertens v. Hewitt Associates .....	683
	Notes and Questions .....	695
	Harris Trust & Savings Bank v. Salomon Smith Barney.....	698
	Notes and Questions .....	705
2.	Claims to Enforce a Plan Reimbursement Clause .....	706
	Great-West Life & Annuity Insurance Co. v. Knudson .....	707
	Notes and Questions .....	717
	Sereboff v. Mid Atlantic Medical Services, Inc. ....	718
	Notes and Questions .....	723
	US Airways, Inc. v. McCutchen.....	724
	Questions .....	733
3.	Claims for Interference with Protected Rights Under Section 510 .....	734
	Inter-Modal Rail Employees Association v. Atchison, Topeka & Santa Fe Railway Co. ....	736
	Notes and Questions .....	739
4.	Claims for Individual Relief for Breach of Fiduciary Duty.....	743
	Varity Corporation v. Howe.....	743
	Notes and Questions .....	749
	Cigna Corp. v. Amara.....	751
	Notes and Questions .....	766
F.	Discussion Questions for Chapter Six.....	768



Question One .....	768
Question Two .....	769
Question Three .....	769
Question Four .....	770
Question Five.....	771
Question Six.....	772
<b>Chapter 7. Preemption of State Law .....</b>	<b>775</b>
A. Overview of ERISA Preemption of State Law .....	775
1. Statutory Provisions and Legislative History .....	775
2. The Evolution of ERISA Preemption Analysis.....	777
B. The Early Preemption Cases: Broad Preemption of State Law .....	779
Shaw v. Delta Air Lines, Inc.....	779
Notes and Questions .....	782
Pilot Life Insurance Co. v. Dedeaux.....	783
Notes .....	789
Ingersoll-Rand Co. v. McClendon.....	792
Notes and Questions .....	795
C. Modern Preemption Jurisprudence .....	797
New York State Conference of Blue Cross & Blue Shield Plans v.	
Travelers Insurance Co. ....	798
Notes and Questions .....	806
Egelhoff v. Egelhoff.....	810
Notes and Questions .....	819
Problem on ERISA Preemption of State Law.....	821
D. State Laws Regulating Health Care Plans and Health Care	
Providers .....	822
1. Supreme Court Decisions.....	822
Rush Prudential HMO, Inc. v. Moran.....	823
Notes and Questions .....	834
Kentucky Association of Health Plans, Inc. v. Miller .....	835
Notes and Questions .....	838
Aetna Health Inc. v. Davila .....	840
Notes and Questions .....	851
Problem on ERISA Preemption and State Insurance Laws .....	852
Problem on Complete Preemption and State Law Claims .....	852
2. State Laws Expanding Health Insurance Coverage .....	853
Retail Industry Leaders Association v. Fielder .....	854
Golden Gate Restaurant Association v. City and County of San	
Francisco .....	863
Notes and Questions .....	872
E. Discussion Questions for Chapter Seven.....	873
Question One .....	873
Question Two.....	873
Question Three .....	873
Question Four.....	874

**Appendix A. Adoption Agreement..... 875**

**Appendix B. Sample Form 5500 ..... 913**

**Appendix C. Value Tables..... 919**

**Appendix D. Sample Form 5300 ..... 923**

**Appendix E. Limits on Contributions and Benefits (2014)..... 935**

**Appendix F. Sample QDRO ..... 937**

**Appendix G. Timeline of Affordable Care Act Reforms ..... 941**

**Appendix H. List of Acronyms..... 945**