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### Benefit from key updates and strategies on:

- Preemption, remedies, and subrogation after *Wurtz v. Rawlings*
- Class action developments with regard to excessive fees, stock drop, defined benefit and welfare plan class claims
- Emerging trends with the Affordable Care Act
- And the latest issues in
  - ERISA fiduciary litigation
  - Defined benefit plans and stock drop litigation
  - Challenges to assessments of withdrawal liability
  - ESOP litigation
  - 401(k) fee cases
- *And so much more – see page 3 inside for all the new sessions added*



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In addition to unparalleled networking opportunities, ACI's 9<sup>th</sup> ERISA Litigation will provide attendees with the latest insights and expert advice from our exceptional faculty including on:

- **Emerging Trends in ERISA Class Actions**
- *Wurtz v. Rawlings*: **Preemption, Remedies, and Subrogation**
- ESOP Litigation: Defending Against New and Emerging Claims and Assessing Recent Developments, With a Focus on DOL Investigations and Settlements
- **ETHICS: Ethical Considerations for the ERISA Practitioner**
- Recent Stock-Drop Decisions and Ramifications for Fiduciaries of Retirement Plans: **The Interplay Between ERISA and Securities Law**
- Benefit Claims Litigation: The Latest on ERISA-Specific Case Tracks Aimed at Discovery Disputes, Attorney Fees Post-*Hardt*, Limitation Periods in Plans, Addressing Requests for Evidence Outside of the Record in "Conflict" Situations, Judicial Review of Claims Decisions and the Battle Over Discretion, and More
- **The Intersection of the Affordable Care Act and ERISA: Health Care Reform and New Claims and Defenses in Workforce Realignment Litigation**
- **Excessive Fees: ERISA Litigation Against Fiduciaries**
- **New Developments in Church Plan Litigation**
- *M&G Polymer USA, LLC v. Tackett*: **Retiree Health and Welfare Benefits and the Yard-Man Presumption**
- **Fiduciary Liability Insurance: Assessing Current Coverage and Future Needs & Strategic Litigation and Settlement Considerations**
- **Independent Fiduciaries: Working with Them to Protect Participants and Reduce Risk**
- **Regulatory Enforcement Risk**

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## Who You Will Meet

- Attorneys handling litigation for:
  - ERISA fiduciaries
  - ERISA service providers
  - Benefit plan sponsors
  - Employee benefit plans
- In-house counsel for:
  - Plan sponsors
  - Service providers
  - Fiduciary liability insurance policy writers
  - Employee pension and benefit attorneys
  - Fiduciary liability insurance brokers

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# Day One: Monday, April 13, 2015

7:30 **Registration and Continental Breakfast**

8:00 **Chairs' Welcoming Remarks**



**H. Douglas Hinson**  
Partner  
Alston & Bird LLP



**Amanda S. Amert**  
Partner  
Jenner & Block LLP



**Michael J. Prame**  
Principal  
Groom Law Group, Chartered

8:05 **In-House Panels: Perspectives on Plan Sponsor Liability, Limiting Fiduciary Liability, Implications of the ACA, Plan Document Language, De-Risking, Managing Litigation, Service Provider Liability, Disclosure Requirements, the Claims Review Process, Securities Piggyback Litigation and More**

## Panel 1: 8:05 – 9:20

**Jill Sullivan**  
Assistant General Counsel  
DIRECTV

**Deborah Hilke**  
Principal Litigation Counsel  
Medtronic, Inc.

**Brad Schlichting**  
Senior Counsel  
Wells Fargo & Co.

**Sharon Goldzweig**  
Associate Counsel  
Consolidated Edison Inc.

**Ketty A. Saez**  
Assistant Vice President & Senior Counsel  
Litigation, Dispute Resolution and Bankruptcy  
John Hancock Financial Services

**Brian Mandrazo**  
Senior Corporate Counsel  
Paychex, Inc.

### Moderator:



**Amanda S. Amert**  
Partner  
Jenner & Block LLP

## Panel 2: 9:20 – 10:35

**Peter M. Kelly**  
Deputy General Counsel and Chief Employee Benefits Counsel  
Blue Cross and Blue Shield Association

**Kelli Christenson**  
Senior Counsel, Benefits  
Kraft Foods Group

**Allison R. Klausner**  
Assistant General Counsel – Benefits  
Honeywell International Inc.

**Ron Peppe**  
Vice President Legal & Human Resources  
Canam Steel Corporation

**Philip Weis**  
Director, Senior Employment Counsel  
Boehringer Ingelheim Pharmaceuticals, Inc.

**Russ Dempsey**  
SVP & Chief Legal Officer  
United Retirement Plan Consultants

### Moderator:



**Anne Pachciarek**  
Partner  
DLA Piper

Topics for the panels will include:

- Managing relationships with plan sponsors
- Plan sponsor liability
- Conflicts with plan sponsors
- Limiting fiduciary liability
- Plan administration fraud & abuse
- Service provider liability
- New disclosure requirements
- Claims procedures and review process
- Bankruptcy issues and much more

10:35 **Morning Coffee Break**

10:45 **Emerging Trends in ERISA Class Actions**

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**Charles F. Seemann III**  
Shareholder  
Jackson Lewis P.C.



**Mark Muedeking**  
Partner  
DLA Piper



**Patrick W. Shea**  
Partner  
Paul Hastings LLP



**Mark Casciari**  
Partner  
Seyfarth Shaw LLP

- New settlement considerations
- Releases, arbitration agreements, and new defenses
- Nuances on Rule 23, monetary classes and issue certification
- Monetary remedy classes
- Expert testimony and class certification
- Certification of “Class of Plans” in ERISA actions against service providers
- Class action experts
- Standing constraints of the scope of class litigation

11:50 **Wurtz v. Rawlings: Preemption, Remedies, and Subrogation**

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**Lori A. Meaders**  
Senior Attorney  
Southern California Edison Company



**Bryan D. Bolton**  
Partner  
Funk & Bolton P.A.



**Elizabeth (Lisa) J. Bondurant**  
Partner  
Womble Carlyle Sandridge & Rice, LLP



**Michael H. Bernstein**  
Partner  
Sedgwick LLP

- The definition of an employee benefit plan under ERISA’s terms
- The preemption of state laws that relate to any employee benefit plan
- The exemption of laws that regulate insurance
- The Savings Clause

12:50 **Networking Lunch for Speakers and Delegates**

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1:50 **ESOP Litigation: Defending Against New and Emerging Claims and Assessing Recent Developments, With a Focus on DOL Investigations and Settlements**

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**Daniel Feinberg**  
Shareholder  
Lewis, Feinberg, Lee, Renaker & Jackson, P.C.



**H. Douglas Hinson**  
Partner  
Alston & Bird LLP



**Eric G. Serron**  
Partner  
Steptoe & Johnson LLP

ESOP cases continue to be filed in droves, in large part due to the DOL’s enhanced scrutiny of these plans. This session will focus on recent litigation trends, including related legal and fiduciary issues (including whether an ESOP fiduciary has a duty to act on the basis of material nonpublic information), as well as insurance and underwriting issues, including an analysis of *Perez v. Bruister*. Topics include:

- ESOP private litigation and DOL priorities
- Enforceability of ESOP indemnity agreements
- Preparing for and responding to DOL audits
- “Hot button” issues that can come up in DOL audits and private litigation and recent decisions in ESOP cases that have addressed some of these issues
- Whether and when courts will allow ESOP-owned companies to indemnify ESOP fiduciaries
- Responsibility sharing of ESOP trustee, appraiser and ESOP committee

2:50 **Excessive Fees: ERISA Litigation Against Fiduciaries**

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**Rachel S. Urquhart**  
Sr. Attorney, Employment and Benefits  
Legal Department  
Argonne National Laboratory



**Mark B. Blocker**  
Partner  
Sidley Austin LLP



**Gregory Y. Porter**  
Partner  
Bailey & Glasser LLP

- The impact of fees on defined contribution balances
- The Exclusive Benefit Rule and what “reasonable fees” are
- The Prohibited Transaction Exemption
- Fee models and revenue sharing
- Case Law Review
  - Fiduciary status of service providers
  - Definition of plan assets

3:45 **Afternoon Break**

3:50 **Regulatory Enforcement Risk**

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**Rhonda Prussack**  
VP, Fiduciary Liability Product Manager  
Berkshire Hathaway Specialty Insurance



**Paul M. Secunda**  
Director, Labor and Employment Law Program  
Marquette University Law School



**Michael J. Prame**  
Principal  
Groom Law Group, Chartered

- The Pension Benefit Guaranty Corporation (PBGC): What's New for Practitioners
- Benefit restrictions and the present value of the maximum guarantee
- Update on the effect of HAFTA on 4010 filings
- Premium payments to PBGC
- 2015 premium rates
- Department of Labor Audits and Internal Revenue Service: Top DOL and IRS Audit Issues for Retirement Plans

The latest initiatives from the DOL and the IRS as both agencies are increasingly focusing their attention on the internal controls employers sustain for their employer benefit plans. Discussions will include audits focusing on:

- ACA compliance
- Denials of claims
- Lack of fee transparency
- Lack of disclosure

4:45 **The Intersection of Affordable Care Act Rights and ERISA: Health Care Reform and New Claims and Defenses Involving Workforce Realignment, Discrimination, Mental Health Parity, Traditional Labor Law, and More**



**Gregory L. Ash**  
Partner  
Spencer Fane Britt & Browne LLP



**Elise D. Klein**  
Partner  
Lewis Brisbois Bisgaard & Smith LLP



**Peter Stris**  
Principal  
Stris & Maher LLP

Recent developments in areas including:

- The Patient Protection and ACA provisions all employers need to be aware of
- New reporting requirements
- The latest in tax subsidy issues from *Halbig v. Burwell* and *King v. Burwell*
- Updates on The Federal Mental Health Parity and Addiction Act
- ACA "Whistleblower" claims
- EEOC concerns and discrimination allegations
- Best practices for risk mitigation
- Workforce Realignment Litigation Risks
  - Employee misclassification
  - ERISA 502(a)(3) Actions to Enforce Substantive ACA Mandates
  - ERISA 510 claims
  - Traditional labor risks

5:40 **M&G Polymer USA, LLC v. Tackett: Retiree Health and Welfare Benefits and the Yard-Man Presumption**



**Stephanie Edwards**  
General Attorney  
AT&T Services, Inc.



**Gregory F. Jacob**  
Partner  
O'Melveny & Myers LLP



**Mary Jo Anderson**  
Corporate Counsel  
DuPont

- The latest from the Supreme Court on whether ordinary contract interpretation should be applied to a dispute over the life of retiree health benefits and, where the contract is silent, courts should apply the relevant default principles
- Collective bargaining agreements in Labor cases
- Whether courts should require a clear statement that health-care benefits intend to survive the termination of the collective bargaining agreement; forum shopping issues

6:30 **Conference Adjourns - Cocktail Reception**

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**DAY TWO**  
**TUESDAY, APRIL 14, 2015**

7:30 **Continental Breakfast**

8:00 **The View From the Bench**



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**Hon. Lorenzo F. Garcia**  
Magistrate Judge  
U.S. Dist. Ct., D.N.M.



**Hon. Richard A. Kramer**  
Complex Litigation Judge  
Super. Ct. of Calif.

**Moderator:**



**Craig C. Martin**  
Partner  
Jenner & Block LLP

9:40 **Morning Coffee Break**

9:50 **Independent Fiduciaries: Working with Them to Protect Participants and Reduce Risk**

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**Denise Sisk**  
Managing Director  
State Street Global



**James P. McElligott Jr.**  
Partner  
McGuireWoods LLP

- Appointment of “independent” fiduciaries without access to nonpublic information
- Why you should hire an independent fiduciary and when you should retain their services
- Roles and accountabilities they are responsible for when engaged:
  - Qualified retirement plans
  - Health and welfare plans
  - Compliance reviews
  - Liability audits
- Outside trustees obtaining information from the insider
- The role of independent fiduciaries in settling ERISA class actions

10:45 **Recent Stock-Drop Decisions and Ramifications for Fiduciaries of Retirement Plans: The Interplay Between ERISA and Securities Law**

---

**Robert M. Carmen**  
Complex Claims Director  
AIG



**Todd D. Wozniak**  
Shareholder; Co-Chair, ERISA Litigation Group  
Greenberg Traurig, LLP



**Lewis R. Clayton**  
Partner  
Paul, Weiss, Rifkind, Wharton & Garrison LLP



**Jason J. Mendro**  
Partner  
Gibson, Dunn & Crutcher LLP

- The application of *Dudenhoeffer* in *Harris II*
- What the *Harris* decisions mean for the presumption of prudence
- The impact at the pleading stage/motion to dismiss
- The impact on disclosure claims in ERISA stock drop litigation
- Whether employers should and/or will continue to offer retirement plans that invest in employer stock
- Statute of limitations issues in litigation regarding plan investments
- Recommendations for how ERISA professionals can benchmark their strategies in response to recent trends and new developments

11:50 **In-House Panel on Fiduciary Liability Insurance: Underlying Exposures and Coverage Issues, Placing and Underwriting Insurance, Future Needs, and Strategic Litigation and Settlement Considerations**

---



**Wendy Katherine Von Wald**  
Vice President  
Global Fiduciary Liability Product Manager  
Chubb



**Brian L. Smith**  
Chief Operating Officer  
Segal Select Insurance Services, Inc.



**Barbara Gubitose**  
Senior Vice President  
Professional Risk Group  
Wells Fargo Insurance



**Kimberly M. Melvin**  
Partner  
Wiley Rein LLP

**Moderator:**



**Nancy G. Ross**  
Partner  
Mayer Brown LLP

- Language challenges and claim considerations
- Dissecting claims
- Strategic litigation considerations
- Settlement considerations
- Assessing your needs and ensuring proper coverage disputes; key exclusions; issues that arise when service providers (TPAs, record keepers, etc.) are involved
- Typical policy provisions and the issues they raise
- Indemnification and liability insurance coverage options for ERISA fiduciaries
- Lessons to learn from recent ERISA fiduciary liability insurance coverage cases
- ERISA fiduciary liability insurance negotiation, placement and underwriting issues
- Coverage issues under ERISA fiduciary liability insurance
- What the current landscape looks like?

12:55 **Networking Lunch for Speakers and Delegates**

1:50 **New Developments in Church Plan Litigation**

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**Kristina B. Pett**  
Founding Member  
Pett Furman, PL



**James A. Keller**  
Partner  
Saul Ewing LLP



**Lynn Lincoln Sarko**  
Managing Partner  
Keller Rohrback L.L.P.



**Howard Shapiro**  
Co-Chair, ERISA Litigation Practice Group  
Proskauer Rose LLP

- Assessing recent actions brought against church plans
- Exclusion of such plans from ERISA requirements
- What are successes or failures of church plan litigation? Where does it go from here?
- What are the implications of this litigation in broader contexts?
- PBGC responsibility for the plans
- Nuances regarding same sex marriage, contraception, and social conscious investment decision-making
- Congressional action on the ERISA's church plan exemption?
- What steps should church plan sponsors take to protect their plans from a successful challenge?

2:50 **Afternoon Break**

3:00 **Benefit Claims Litigation: The Latest on ERISA-Specific Case Tracks Aimed at Discovery Disputes, Attorney Fees Post-Hardt, Contractual Limitations Periods, Addressing Requests for Evidence Outside of the Record in "Conflict" Situations, Judicial Review of Claims Decisions and the Battle Over Discretion, Preemption and Jurisdiction, and More**



**William Patton**  
Shareholder  
Lane Powell PC



**Denise M. Clark**  
Partner  
Clark Law Group, PLLC



**Mark D. DeBofsky**  
Principal  
DeBofsky & Associates, P.C.



**Stephen Rosenberg**  
Of Counsel  
The Wagner Law Group

- Efforts by state insurance regulators/legislatures to ban discretionary clauses in ERISA-governed plans
- Enforceability of suit limitations provisions post-*Heimeshoff*
- Attorney fees post-*Hardt*
- Remedies and pleading alternatives
- *Rochow v. Life Insurance Company of North America*

4:15 **ETHICS: Ethical Considerations and Issues for the ERISA Practitioner, Including Conflicts of Interest**



**Deidre A. Grossman**  
Co-Chair, Employee Benefits Litigation Practice Group  
Littler Mendelson P.C.



**Mark D. Spencer**  
Shareholder  
McAfee & Taft

5:15 **Conference Ends**

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