

Preface

In 1985, members of the Employee Benefits Committee of the ABA Labor and Employment Law Section came up with the idea to publish what became the First Edition of *Employee Benefits Law*. “The Book,” as it is affectionately called by Committee members, has been the hallmark product of the Employee Benefits Committee since the First Edition and its Supplements were published from 1991 to 1996; followed by the Second Edition and its Supplements, published from 2000 to 2010; and the Third Edition and its Supplements published from 2012 to 2015. Now, in 2017, we are pleased to introduce the Fourth Edition of *Employee Benefits Law*, more than 30 years after those Committee members proposed this publication and covering more than 25 years of additional legal developments since the First Edition.

As noted in the Introduction to the Fourth Edition by Phyllis Borzi and Ali Khawar, in many ways the more things change the more they stay the same, both in the field of employee benefits law and in writing this book. In preparing the Fourth Edition of *Employee Benefits Law*, we have been confronted with many of the same challenges that confronted the authors and editors of the First, Second, and Third Editions, as well as with new ones. This book covers a wide range of topics from different aspects of employee benefits law, with chapters touching on breach of fiduciary duty litigation; on benefit claims adjudication and litigation; on tax compliance, qualification, and consequences under the Code; on issues unique to multiemployer plans; on regulation and administration of health care benefit plans. Each area has had significant development over the years, taking turns being in the spotlight as current events have impacted employee benefit plans. We have also been writing about employee benefits law for the Fourth Edition at the same time that the Supreme Court, Congress, and the regulatory agencies have been changing or attempting to change the rules. The combined challenges translated into a project spanning two years, and one which we believe was well worth the effort.

As in the past, we have had to consider how best to organize and summarize, in a balanced way, the state of the law on complex subjects and how to avoid unnecessary confusion or duplication where statutory and case law developments appear to be relevant in multiple chapters of the book. In making these judgments, we often had to reconsider organizational decisions made in connection with the prior editions, when they no longer seemed appropriate in light of the subsequent evolution of the law. You will thus see in this Fourth Edition that some chapters have been reorganized, some material has been

eliminated, and some chapters have significantly updated material as compared to the Third Edition. The health care chapters, for example, look nothing like they did in the First or Second Editions, when there was limited federal regulation. The litigation chapters discuss issues that weren't even contemplated when the First Edition was published. The benefit claims chapters have significantly changed over the years subsequent to legislative and regulatory actions. The multiemployer plan chapters, on the other hand, haven't changed as much in form, with recent developments folded into existing structure.

Compounding these issues was the sheer volume of case law developments over the years covered in this book. In most sections, we have had to limit the case law citations to appellate court authority, and even then we have had to make difficult choices as to the number of cases to cite, or to describe in the text, with respect to any particular subject matter. Even more so than in the past, the book must be viewed as a guide to our readers but not as a substitute for further research.

What has remained a constant is the book's dependency on the collaborative efforts of the members of the Employee Benefits Committee of the American Bar Association's Section of Labor and Employment Law. As in each prior edition, Committee members served as Senior Editors, Chapter Editors, and Contributing Editors for the Fourth Edition, each level of contribution necessary for completion and publication of this treatise. Each contributor's work is valuable, and this book simply would not be written without their assistance. Thank you to all.

Given the enormous growth in the number of contributors to this treatise, a number needed to address the corresponding increase in the volume of materials to consider and summarize, maintaining consistency of quality and style throughout the book has been a particular challenge. But we remain enormously proud of the quality and intellectual depth of the finished product.

We have, of course, several people to thank in addition to the book's contributors. We wish to gratefully acknowledge the assistance of BNA staff, particularly our longtime editor Ann Gerster, and our primary contact, David Wagoner, Acquisitions Manager. Thanks also go to our legal intern from The John Marshall Law School, Raechel Parolisi, who provided helpful support in updating research as we finished this project. We also wish to sincerely thank a few people who went above and beyond and without whom we may not have finished: Tracey Bellapianta, our Coordinator, and Senior Editors Erin Riley and Robert Fisher, who did more than their fair share of editing challenging chapters.

It is also necessary to recognize the many years of dedication and contribution to *Employee Benefits Law* by Jeff Lewis and Myron Rumeld, each of whom intends to step down soon after this publication. Jeff has worked on this treatise for years, serving as a Senior Editor for the Second Edition and as co-chair of the Board of Senior Editors for the Third and Fourth Editions. He is a careful and conscientious writer and editor, with an unwavering commitment to quality. Myron has been involved for many years as well, serving as co-chair of the Board of Senior Editors for the Third and Fourth Editions. He is also a superb editor, who can seemingly effortlessly improve written work without changing

its substance and quality. The value they have each added to this publication over the years cannot be measured. Thank you. They will be missed.

Please be sure to read the Introduction to the Fourth Edition, co-written by former U.S. Assistant Secretary of Labor Phyllis Borzi, a longtime Committee member and contributor. Phyllis also wrote the Introduction to the Third Edition, published while she was serving as Assistant Secretary for the Employee Benefits Security Administration. The Introductions to the Fourth and Third Editions describing issues relevant since the year 2000, along with the Introductions to the Second and First Editions, describing issues relevant in the 1990s, illustrate the trends that have substantially impacted the development of the law and regulations regarding employee benefits over the decades. All of the Introductions together provide a whirlwind tour of the development of employee benefits law.

The official cut-off date for circuit court case law developments included in this *Fourth Edition* is December 31, 2015, with Supreme Court decisions, legislative developments, and key regulatory changes through March 1, 2017 (and in some instances beyond). Consistent with prior practice we anticipate annual Supplements to keep the Fourth Edition up to date. As before, the Co-Chairs of the Board of Senior Editors take full responsibility for any errors or inconsistencies that unintentionally crept in.

IVELISSE BERIO LEBEAU
Editor in Chief, and
Co-Chair, Board of Senior Editors

JEFFREY LEWIS
MYRON D. RUMELD
Co-Chairs, Board of Senior Editors

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