

# Preface

*This Spring 2018 Supplement is current through December 31, 2016, with selected updates through August 31, 2017, as noted below.*

I am pleased to introduce the first Supplement to the Fourth Edition of *Employee Benefits Law*. This Supplement covers relevant developments in employee benefits law through December 31, 2016, as well as Supreme Court opinions, final regulations, and legislation issued through August 31, 2017.

As described in the Preface to the Fourth Edition, *Employee Benefits Law* was envisioned in 1985, was first published in 1991, and has been the hallmark product of the Employee Benefits Committee of the American Bar Association's Labor and Employment Law Section ever since. The Second Edition was published in 2000; the Third Edition in 2012; and the Fourth Edition in 2017.

In between editions, the Employee Benefits Committee produces annual supplements. Each year we consider new legislation, regulations, and case law, and identify developments that significantly change the law or further expand it. This first Supplement is being published on the heels of the Fourth Edition, which covered case law through the end of 2015 and Supreme Court opinions, final regulations, and legislation through spring of 2017. This Supplement is also being published after an unusual political year, where there was little new legislation or regulation, despite the executive and legislative branches being controlled by the same political party. Reflecting these factors, please note that this Supplement has less coverage of new legislation or final regulations than has been typical in prior years.

Although federal agencies failed to produce many new regulations, the federal courts were busy reviewing and opining on existing ones. In 2016, several federal courts issued opinions that partially stayed or invalidated regulations, particularly on topics related to the Affordable Care Act. As we go to press in 2018, the Fifth Circuit just issued an opinion vacating final regulations implementing fiduciary standards for investment advice related to employee benefit plans, creating a circuit split. It

is too soon to know whether this trend of federal courts shaping federal regulations will continue, but the coverage in this Supplement is notable for an increase in federal opinions of this nature.

The Supreme Court has also been quieter than usual during the past year, with only one 2017 opinion in this Supplement, *Advocate Health Care Network v. Stapleton*, on the nature of church plans exempt from coverage under ERISA. Federal courts have continued, however, to address issues relating to employee benefits plans, and this Supplement updates the Fourth Edition with significant case law issued throughout 2016.

Publishing *Employee Benefits Law* has always been and continues to be a group effort by and for the benefit of the members of the Employee Benefits Committee, as a service to each other, members of the ABA's Labor and Employment Law Section, and beyond. The Employee Benefits Committee has 4 Co-Chairs and 17 Subcommittees with more than 80 Subcommittee Co-Chairs who serve as Chapter Editors. They in turn are supported by more than 50 Subcommittee members and others who serve as Contributing Authors. Their collaborative effort produces the initial material for the annual supplements, which is then revised and edited by members of the Board of Senior Editors, the Co-Chairs of the Board of Senior Editors, and the Editor in Chief. In short, this annual publication is the result of the combined effort of more than 150 attorneys from all perspectives in the field of employee benefits law, including many leading practitioners. It is the collective professional experience of all these people that makes *Employee Benefits Law* what it is. Thank you to each of you for your contribution to this publication!

While many contribute, there is a smaller group that leads. Beginning with this Supplement, Ian Morrison has taken over for Myron Rumeld, who stepped down as Co-Chair of the Board of Senior Editors last year. Ian has been a Senior Editor for several years and is a talented editor who does careful and conscientious work. This year we also welcome Erin Riley, who will be taking over for Jeff Lewis, who is stepping down as a Co-Chair while remaining on the Board. Erin has also been a Senior Editor for several years, and she made significant and valuable contributions to the Fourth Edition. I'm excited to welcome both Ian and Erin as new Co-Chairs of the Board of Senior Editors and am confident that they will bring added value to this publication. I am also grateful that Tracey Bellapianta has continued to work with me as Coordinator for this Supplement. An impressive amount of work goes into producing this book year after year, and Tracey's contributions continue to be vital to this Supplement's publication. I thank each of the members of this team for their dedication and contributions to this book.

In order to publish a book you of course need a publisher, and the staff at Bloomberg BNA has continued to partner with us in publishing

*Employee Benefits Law* year after year. Thanks go to Ann Gerster, Barbara Negley, David Wagoner, and Margret Hullinger.

Employee benefits law is a constantly developing field, and we make every effort to reflect such in this treatise as we strive to make *Employee Benefits Law* and its supplements useful for practitioners. We appreciate feedback from readers and hope that you will let us know if you think that there are areas that should be covered or covered in greater depth, or if you have other suggestions or recommendations for how we might improve this treatise. You may email any comments to me at EBL4.Email@gmail.com.

Also, if you are not already a member of the Employee Benefits Committee, we encourage you to join, and to consider attending the Committee's annual midwinter meetings, where a dynamic group of attorneys meet to discuss developments in the law and create the types of relationships within the practice that allow for this book to exist. Information about the Committee and its midwinter meetings can be found on the ABA's website at [http://www.americanbar.org/groups/labor\\_law/committees/ebcom.html](http://www.americanbar.org/groups/labor_law/committees/ebcom.html).

As always, we take full responsibility for any errors or inconsistencies that unintentionally crept in.

IVELISSE BERIO LEBEAU  
Editor in Chief

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