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PRACTICES

Complex Civil Litigation
DOL Investigations & Compliance
ERISA & Employee Benefits Litigation
Employee Benefits Policy
Executive Compensation
Health, Welfare & ACA Compliance
PBGC Advice and Controversy
Qualified Plans

EDUCATION

J.D., University of California, Hastings College of the Law, 1988

A.B., University of California at Berkeley, 1982

Theresa (Tess) S. Gee

MEMBER

Tess Gee is the author of *ERISA: Department of Labor Investigations and Litigation* (Practising Law Institute), an authoritative guide to the Department of Labor's (DOL) enforcement of the fiduciary and prohibited transaction provisions under the Employee Retirement Income Security Act of 1974, as amended (ERISA). Tess also writes frequently on issues concerning ERISA's fiduciary responsibilities as they relate to pension and health plans, including trends in litigation. Tess served as the Chair of the firm's Employee Benefits Department. She is a Fellow of the American College of Employee Benefits Counsel.

Tess focuses her practice on both litigation and counseling in connection with fiduciary responsibilities and compliance with ERISA. Tess served for nearly 14 years in DOL's Office of the Solicitor, most recently as a Deputy Associate Solicitor in the division responsible for ERISA litigation and advice. While with DOL, she represented the government in investigations and cases involving breaches of fiduciary duty and prohibited transactions in connection with the value of company stock, corporate fraud, excessive fees, health plans and plan investments, as well as funding and other issues under Title IV of ERISA.

Since leaving the government, Tess has utilized her extensive past experience to assist clients in responding to DOL fiduciary investigations and inquiries and advising on plan design, fiduciary processes, disclosures, compliance with prohibited transaction provisions, and controlled group issues. She has successfully defended major corporations, directors and officers in class actions alleging fiduciary breaches, obtaining dismissal, nonmonetary settlement and favorable summary judgment rulings in various matters.

Prior to joining Miller & Chevalier, Tess advised clients under DOL investigation and was an ERISA class action litigator at a global law firm with offices in Washington, DC.

Representative Engagements

- Assisted clients in responding to DOL fiduciary investigations and inquiries.
- Advised clients with respect to controlled group issues under Title IV of ERISA, including representation in litigation against PBGC.
- Counseled financial institutions, plan sponsors, and other clients on fiduciary structure and processes, disclosures and compliance with ERISA's prohibited transaction provisions.
- Successfully defended major corporations, directors, and officers in ERISA class actions in connection with employer stock funds offered by 401(k) plans, obtaining favorable rulings on dismissal and summary judgment, and achieving nonmonetary

settlements in separate matters.

- Obtained no-action letters at conclusion of DOL fiduciary investigations.
- Defended clients in arbitration, litigation, and class actions alleging ERISA fiduciary breaches and prohibited transactions in connection with administrative expenses, investment fees charged to plans, and other fiduciary issues.

Government Experience

- Deputy Associate Solicitor, Office of the Solicitor, U.S. Department of Labor, 2005 - 2008
- Senior Trial Attorney, Office of the Solicitor, U.S. Department of Labor, 2004 - 2005
- ERISA Counsel, Regional Office of the Solicitor, U.S. Department of Labor, 2000 - 2004
- ERISA Trial Attorney, Regional Office of the Solicitor, U.S. Department of Labor, 1994 - 2000

Rankings and Recognition

- *Legal 500*: Labor & Employment: ERISA Litigation, 2016 - 2021
- *Legal 500*: Labor & Employment: Employee Benefits and Executive Compensation: Design, 2016, 2019
- *The Best Lawyers in America*[®]: Litigation – ERISA, 2018 - 2022
- *The Best Lawyers in America*[®]: Employee Benefits (ERISA) Law, 2020 - 2022
- DC Bar Capital Pro Bono Honor Roll, 2016 - 2018, 2020
- Secretary of Labor Exceptional Achievement Award (Litigation), 2001, 2003, 2004, 2006 - 2008
- Secretary of Labor Exceptional Achievement Award (Training), 2002, 2005

Affiliations

- Board Member and Secretary, [Gary S. Tell ERISA Scholarship Foundation](#)
- Fellow, American College of Employee Benefits Counsel
- Former Co-Chair, Fiduciary Responsibility, American Bar Association Labor and Employment Section, Employee Benefits Committee
- Former Co-Chair, Civil Practice and Procedure, American Bar Association Labor and Employment Section, Employee Benefits Committee

Admissions

STATE ADMISSIONS

- District of Columbia
- California