



O'MELVENY & MYERS LLP

Gary Tell

PARTNER



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Gary Tell is a partner in O'Melveny's Washington, DC office, focusing on employee benefits and litigation. His practice emphasizes fiduciary issues, drawing on over 15 years of experience in both private practice and as a government ERISA regulator.

Gary joined the firm after several years with the Department of Labor's Office of the Solicitor, where he assisted the Employee Benefits Security Administration with investigations and handled ERISA litigation across the country. The Secretary of Labor presented Gary with several Exceptional Achievement Awards, including an award for his drafting of *amicus curiae* briefs on a wide variety of ERISA issues, ranging from ERISA preemption to the scope of liability under the statute.

In addition to a national litigation practice at the trial and appellate levels, Gary regularly provides advice to plan sponsors and financial institutions on government investigations and regulatory matters, particularly with regard to fiduciary issues and plan investments.

Gary has been named by *Chambers USA* (2005, 2006, 2007, 2008, 2009), *Legal 500* (2007, 2008, 2009), and *The Best Lawyers in America* (2006, 2007, 2008, 2009, 2010) as a leading practitioner in the employee benefits area.

Illustrative Professional Experience

- Represented or representing the fiduciaries of plans sponsored by at least a dozen major corporations in connection with litigation involving employer stock held by their defined contribution plans.
- Represented several trust companies in numerous suits involving their roles as directed trustees of defined contribution plans.
- Represented or representing the fiduciaries of several financial institutions in suits alleging prohibited transactions and breaches of fiduciary duty in connection with their in-house plans' use of affiliated investment vehicles and services.
- Obtained a dismissal of breach of fiduciary duty claims in a suit against a large plan sponsor, stemming from a plan amendment that limited investment options under a profit sharing plan. Gary argued the appeal in the Ninth Circuit Court of Appeals and successfully defended the dismissal.
- Represented fiduciaries in the successful defense of a suit involving the funding of a defined benefit plan following a spin-off.
- Represented fiduciaries of an ESOP in a lawsuit initiated by the Department of Labor, alleging fiduciary duty and prohibited transaction violations in connection with the value of company stock contributed to the plan.

Professional Activities

Author, Published articles on fiduciary responsibility and pension plan investments in *Pension Management* and the *New York University Institute on Federal Taxation*

Co-Editor, *West ERISA Litigation Reporter*

Speaker, American Bar Association; West LegalWorks; Practising Law Institute; New York City Bar; Professional Liability Underwriting Society; Investment Management Consultants Association; Pennsylvania Bar Institute; Western Pension and Benefits Conference; The Investment Company Institute; The International Foundation of Employee Benefit Plans; Financial Executives International; The Fixed Income Forum of the Institutional Investor

professional focus

ERISA Litigation
Executive Compensation and Employee Benefits
Class Actions, Mass Torts and Aggregated Litigation
Securities

education

University of Chicago, J.D., 1992

Brown University, A.B., 1989:
magna cum laude

admitted

District of Columbia

publications

[Private Equity Fund Valuation by ERISA Plans](#) (Employee Benefits and Investment Funds Alert)