

Sarah Bryan Fask

Shareholder

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Focus Areas

Discrimination and Harassment
ERISA and Benefit Plan Litigation
Hiring, Performance Management and Termination

Overview

Sarah Bryan Fask maintains a nationwide practice focusing on Employee Retirement Income Security Act (ERISA) litigation.

Sarah has successfully defended against claims in federal courts across the country alleging breach of fiduciary duty and an improper denial of disability, medical or severance benefits. Over the course of her career, she has secured favorable summary judgment verdicts in multiple cases while bringing many others to successful settlements. She also litigates ERISA preemption issues (both offensively and defensively) and enforces ERISA plan subrogation and reimbursement rights.

Sarah also regularly counsels and represents employers with issues involving the interplay between collective bargaining, multiemployer pension plan obligations and withdrawal liability. Sarah helps businesses understand withdrawal liability estimates and assessments, and represents businesses through any necessary request for review, arbitration, and any settlement negotiations. She has extensive experience defending against allegations of successorship, evade or avoid transactions, and the construction industry exemption.

Sarah is leading resource in pension reform efforts and the multiemployer provisions of the American Rescue Plan Act of 2021, specifically. Sarah helps employers strategize regarding the impact of multiemployer pension reform on their business.

She advises buyers and sellers on the implications of multiemployer plans and withdrawal liability in transactions. Sarah works closely with corporate deal counsel to perfect ERISA Section 4204 provisions in asset sales and submit applications to funds for a waiver of the bond requirements in qualifying transactions.

Finally, Sarah also represents employers in disputes with funds regarding the scope of the contribution obligation. She prides herself on developing common-sense economical solutions, while recognizing the long-term implications of audit dispute resolutions for employers.

In addition to her ERISA litigation practice, Sarah counsels and defends claims of discrimination, harassment and retaliation arising under:

- Title VII of the Civil Rights Act of 1964
- The Americans with Disabilities Act (ADA)
- The Age Discrimination in Employment Act (ADEA)
- The Family and Medical Leave Act (FLMA)
- The Pennsylvania Human Relations Act
- The New Jersey Law Against Discrimination
- The Philadelphia Fair Employment Practices Ordinance

Sarah works with in-house counsel and human resources professionals to implement best practices, effectively address employee concerns and avoid unnecessary litigation.

If litigation is unavoidable, she draws on her years of experience in federal courts, well as before the Equal Employment Opportunity Commission, the Pennsylvania Human Relations Commission and the Philadelphia Commission on Human Relations. When litigating, Sarah ensures that all strategy decisions are made with the clients' goals for the litigation front and center.

Professional and Community Affiliations

- Vice-Chair, Newsletter Committee, Labor and Employment Law Section, American Bar Association
- Liaison, Young Lawyers Committee, Labor and Employment Law Section, American Bar Association
- Chair, Outreach to Young Lawyers Committee, Labor and Employment Law Section, American Bar Association
- Former Co-Chair, Young Lawyers Division, Labor and Employment Law Committee, American Bar Association
- Former Development Fellow, Labor and Employment Law Section, American Bar Association
- Former Law Student Division Liaison, Council of the Section of Labor and Employment Law
- Former Member, Law Student Outreach Committee

Recognition

- Named, Rising Star in Employment Litigation, Pennsylvania, *Super Lawyers*, 2016-2018, 2022
- Recipient, Professional Excellence Award for Lawyers on the Fast Track, *Legal Intelligencer*, 2019

Education

J.D., University of Virginia School of Law, 2009

B.A., Swarthmore College, 2005, *With Honors*

Bar Admissions

Pennsylvania

New Jersey

Courts

U.S. Supreme Court

Pennsylvania Supreme Court

New Jersey Supreme Court

U.S. Court of Appeals, 2nd Circuit

U.S. Court of Appeals, 3rd Circuit

U.S. Court of Appeals, 5th Circuit

U.S. Court of Appeals, 7th Circuit

U.S. Court of Appeals, 9th Circuit

U.S. Court of Appeals, 11th Circuit

U.S. District Court, Middle District of Pennsylvania

U.S. District Court, Western District of Pennsylvania

U.S. District Court, Eastern District of Pennsylvania

U.S. District Court, District of New Jersey

U.S. District Court, Eastern District of Michigan

U.S. District Court, Northern District of Illinois

Languages

French

Publications & Press

4 ERISA Arguments To Watch In September

Law360

September 3, 2024

Third Circuit Holds Multiemployer Pension Fund Claim Cannot Be Enforced due to Unreasonable Delay in Providing Notice of Withdrawal Liability Assessment

Littler ASAP

August 20, 2024

4 Benefits Policy Moves To Watch In 2024's 2nd Half

Law360

July 5, 2024

Illinois Federal Court Holds that a Pension Rehabilitation Plan Fund Used an Improper High-Contribution Rate in Withdrawal Liability Calculations

Littler Insight

April 11, 2024

Preliminary Injunction Against Illinois Equivalent Benefits Law for Temporary Workers

Littler ASAP

March 15, 2024

D.C. Circuit Breaks from Second Circuit, Finds Pension Fund May Retroactively Change Its Interest Rate Assumptions

Littler ASAP

February 16, 2024

3 November Argument Sessions Benefits Attys Should Watch

Law360

November 3, 2023

3 Takeaways From The PBGC's Latest Fiscal Health Checkup

Law360

August 4, 2023

5 ERISA Cases To Keep An Eye On In 2023

Law360

January 2, 2023

The 7 Biggest Benefits Rulings Of 2022

Law360

December 16, 2022

First Circuit Creates New Fiduciary Duty Under ERISA for Insurers Accepting Group Premiums from Employers

Littler Insight

December 12, 2022

Pension Insurer Proposal Stems Rising Tide of Liability Suits

Bloomberg Law

October 27, 2022

PBGC Issues Proposed Rule on Withdrawal Liability Actuarial Interest Rate Assumptions

Littler Insight

October 14, 2022

PBGC Looks To Clarify Withdrawal Liability Methodology

Law360

October 13, 2022

PBGC Looks To Clarify Withdrawal Liability Methodology

Law360

October 13, 2022

D.C. Circuit Holds Withdrawal Liability Interest Rate Must Reflect Plan's Investment Policy

Littler ASAP

July 22, 2022

PBGC Institutes Major Changes in its Special Financial Assistance Final Rule

Littler ASAP

July 7, 2022

Congress Considers Banning Discretionary Clauses in ERISA Plans

Littler ASAP

May 19, 2022

Second Circuit Finds No Successor Liability for ERISA Withdrawal Where Employer Did Not Acquire Unionized Facility or Employees

Littler Insight

February 8, 2022

Supreme Court Sends Case Involving ERISA Breach of Fiduciary Duty Pleading Standard Back to Seventh Circuit for Revised Analysis

Littler ASAP

January 26, 2022

PBGC Issues Interim Final Rule on the American Rescue Plan Act's Special Financial Assistance Program

Littler Insight

July 9, 2021

Pension Insurer Rule Details Multiemployer Plan Financing

Bloomberg Law

July 9, 2021

Supreme Court Declines to Hear Appeal in ERISA Class Action Permitting Recalculation of Benefits as Available Relief

Littler ASAP

June 30, 2021

What Comes After 2051 Pension Relief Sunset? It Depends, Attorneys Say

Bloomberg Law

April 21, 2021

Punching In: Marty Walsh Weighs His 'Influence' as DOL Secretary

Bloomberg Law

March 29, 2021

Pension Insurer Preps Guidance to Stem Exodus From Failing Plans

Bloomberg Law

March 22, 2021

The Butch Lewis Emergency Pension Plan Relief Act of 2021 Becomes Law

Littler ASAP

March 11, 2021

Will Senators Keep America's Promises To Pensioners?

DCReport

March 6, 2021

Congress Considers New Multiemployer Pension Reform

Littler ASAP

February 16, 2021

The Emergency Pension Plan Relief Act Proposes Aid to Struggling Multiemployer Pension Plans

Littler ASAP

January 26, 2021

PBGC Finalizes its Rule Simplifying the Calculation of Withdrawal Liability for Multiemployer Pension Plans

Littler ASAP

January 22, 2021

The crisis of multiemployer pension plans: Where do we go from here?

BenefitsPRO

September 10, 2020

What to Expect and How to Defend an ERISA Lawsuit

Super Lawyers

August 14, 2020

'09 Law Grads Offer Advice To Survive 2020 Job Search Chaos

Law360

May 22, 2020

Philadelphia Launches the COVID-19 Small Business Relief Fund

Littler ASAP

March 24, 2020

Littler Elevates 28 Attorneys to Shareholder

Littler Press Release

January 6, 2020

Court Says Pension Withdrawal Liability Can't Be Decelerated

Chief Investment Officer

September 23, 2019

Seventh Circuit Holds that a Deceleration of Withdrawal Liability is Unavailable Under ERISA's Common Law

Littler ASAP

September 5, 2019

Circuit Courts Grapple With the Permanence of Retiree Health Benefits Under Collective Bargaining Agreements

Littler Insight

August 12, 2019

Facebook Settles Claims Alleging Discriminatory Ad Targeting

Littler ASAP

March 21, 2019

The PBGC Proposes Simplified Methods for Calculating Withdrawal Liability

Littler ASAP

March 12, 2019

ERISA: What Employment Lawyers Need to Know

Labor and Employment Law

Spring 2018

Local Ordinances Prohibit Discrimination Against Transgender Individuals in Workplace, Schools

The Legal Intelligencer

March 22, 2018

A Uniform Standard of Review in ERISA Benefit Denial Cases: The Fifth Circuit Overrules Itself to Fall in Line with Other Courts

Littler ASAP

March 16, 2018

ERISA's Evade or Avoid Provision: Conflicting Case Law and Strategies for Employers

Bloomberg BNA Pension & Benefits Daily

May 9, 2016

Sweeping Changes Made to Federal Rules of Civil Procedure 26 and 37

American Bar Association Young Lawyers Division Labor and Employment Law Committee Newsletter

Winter 2016

Philadelphia Extends Protections to Nursing Mothers in the Workplace

Littler ASAP

September 5, 2014

Equal Work for Equal Pay: 50 Years After the Equal Pay Act

Labor and Employment Law

Winter 2014

New Case Provides Lessons That May Help Companies Avoid Pitfalls When Structuring Independent Contractor Relationships

Littler Insight

November 8, 2013

Recent Decision Provides Roadmap for Remediating Late CAFA Notices

Bloomberg BNA Class Action Litigation Report

May 10, 2013

Vance v. Ball State: Narrowing the Definition of "Supervisors"

Labor and Employment Law

Spring 2013

Reviewing the 2011-12 Supreme Court Term

Labor and Employment Law

Fall 2012

The Fair Credit Reporting Act: An Overview of the Act's Requirements for Employers

201 Practice Series

2012

Dog Fighting, Sex, and Drugs: How Sports Leagues React to Misconduct Off the Field

Labor and Employment Law

Winter 2011

New Lawyer Notes: The Fundamentals of Independent Contractors

Labor and Employment Law

2011

Nursing Mothers in the Workplace: A New Amendment to the Fair Labor Standards Act

New Jersey Labor and Employment Law Quarterly

November 2010

The Fundamentals of Independent Contractors

101 Practice Series

2010

Anti-Doping Regulation in Professional and Olympic Sports

Labor and Employment Law

Winter 2010

Beware Those Bearing Gifts: Physicians' Fiduciary Duty to Avoid Pharmaceutical Marketing

University of Kansas Law Review

2009

Workplace Violence: A Primer

101 Practice Series

2009

Eliminate Micro-Abuses to Retain Women and Minorities

Labor and Employment Law

Fall 2008

Speaking Engagements

Multiemployer Contributing Employer Forum

U.S. Chamber of Commerce

May 20, 2024

Understanding the Risk, Strategy and Impact of Providing Abortion-Related Employee Benefits

Littler Executive Employer Conference, Phoenix, AZ

May 11, 2023

What Employment Lawyers Need to Know About ERISA Litigation

Pennsylvania Bar Institute

April 19, 2023

Multiemployer Contributing Employer Forum

U.S. Chamber of Commerce

April 18, 2023

Proposed Regulation: Actuarial Assumptions for Determining an Employer's Withdrawal Liability

U.S. Chamber of Commerce

October 21, 2022

Using Litigation to Clarify the Legal Status of ERISA Plans' Coverage of Abortion Services and Related Travel

July 14, 2022

Multiemployer Plans in Corporate Transactions

2022 Employee Benefits and Mergers and Acquisitions National Institute - American Bar Association Joint Committee on Employee Benefits

May 24, 2022

ARPA Relief for Multiemployer Funds: PBGC Weighs in on Its Interim Final Rule

American Bar Association Webinar

September 14, 2021

What Employers Need to Know About the PBGC's Interim Final Rule About the Special Financial Assistance Program

July 19, 2021

Special Financial Assistance Interim Final Regulations: The Employer's Perspective

U.S. Chamber of Commerce

July 12, 2021

Multiemployer Plans in Corporate Transactions

American Bar Association Webinar

May 7, 2021

Multiemployer Pension Relief: How the COVID-19 Relief Bill Impacts Employers

March 16, 2021

Handling Witnesses and Opposing Counsel During Depositions

14th Annual Labor and Employment Law Conference
November 5, 2020

This Zoom Proceeding is Now in Session: An In-house Counsel's Guide to Virtual Employment Litigation

ACC Virtual Employment & Labor CLE Institute
September 10, 2020

How to Prepare and Win and/or Defend a Single Plaintiff Discrimination Suit: Top 20 Tips

ABA Section of Labor and Employment Law 11th Annual Conference
November 2017

Conducting an Effective Internal Workplace Investigation

ABA Young Lawyers' Division Spring Conference
May 2016

Criminal Background Checks in Employment

Committee of Labor and Employment Law, Young Lawyers' Division – American Bar Association
May 2012

Independent Contractors v. Employees

Committee of Labor and Employment Law, Young Lawyers' Division – American Bar Association
January 2011

The Nuts and Bolts of Employment Law

Burlington County Bar Association
October 2010

Bill for Downsizing: The Dos and Don'ts of Reductions-in-Force

Burlington County Bar Association
February 2010