



David N. Kelley

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Practice Areas



ERISA & Employee Benefits



Employment & Labor



Litigation, Trials & Appeals

Biography

David has defended employers, plans, administrators, fiduciaries and other entities in lawsuits focused on benefits, fiduciary duties, and penalty claims. He has successfully argued many ERISA and non-ERISA cases before several United States district courts, the United States Tenth Circuit Court of Appeals, and the Utah Supreme Court. David has co-authored the biannual 10th Circuit chapter in the American Bar Association publication, “ERISA Survey of Federal Courts” for the last eight years running. He regularly advises employers on their ERISA obligations in light of both insured and self-funded plans providing life, health, and disability benefits to their employees and give seminars to other lawyers seeking continuing education on legal issues.

David also represents employers defending all types of employment-related claims. He defends employers at all stages of litigation, and assists employers in drafting employee policies and agreements, diversity training, workplace investigations and consulting with clients on hiring, disciplining and terminating employees. In the community, David has volunteered for the Utah Children’s Justice Center assisting victims of domestic violence in obtaining protective orders and has also works with the Rocky Mountain Innocence Center petition courts for post-conviction DNA testing.

David earned his law degree at Brigham Young University, graduating Magna Cum Laude and being admitted to The Order of the Coif. He simultaneously obtained his master’s in psychology at BYU, again graduating Magna Cum Laude. David is licensed to practice in Utah’s state and federal courts and the Tenth U.S. Circuit Court of Appeals. David currently serves as the Managing Shareholder at Fabian VanCott.

Professional

Admitted to Utah State Bar, U.S. District Court, District of Utah, U.S. Court of Appeals, Tenth Circuit

Chair, Labor and Employment Section of the Utah State Bar, 2008 - 2009

Member, Labor and Employment Section of the Utah State Bar, 2001 - present

Member, Litigation Section of the Utah State Bar, 2001 - present

Member, American Bar Association, 2001 - present

Recognized as "Legal Elite" in the field of Labor and Employment Law, Utah Business Magazine

Recognized as "Rising Star" in the field of Employee Benefits/ERISA, Mountain States Super Lawyers

Representative Projects

ERISA: David has represented some of the major life, health, and disability insurers in the country against claims brought by plan participants and beneficiaries for ERISA benefits. He has also represented claims administrators and employers against claims brought under ERISA or otherwise related to ERISA.

EMPLOYMENT LAW: Client Consultation. David has represented employers in all areas of employment relationships including the drafting of employment applications, policies, handbooks and agreements, and has provided diversity training, and conducted workplace investigations. David has also advised clients on issues such as covenants not to compete, trade secrets, payment of wages, garnishment order, and other issues related to hiring, disciplining, and terminating employees.

Litigation. David has also represented employers at all stages of litigation in discrimination claims including charges brought before the EEOC or state administrative agencies. He has experience resolving employment cases through summary judgment, mediation, arbitration, and jury trials. In his employment practice he has represented major hotel chains, healthcare facilities, airlines, restaurants, construction companies, manufacturers, and other large employers.

Education

J.D., Magna Cum Laude, J. Reuben Clark College of Law, Brigham Young University, 2001

Order of the Coif, Brigham Young University, 2001

M.S., (Psychology), Magna Cum Laude, Brigham Young University, 2001

B.S., (Psychology), Magna Cum Laude, Brigham Young University, 1996

Psi Chi National Honor Society in Psychology

Publications & Presentations

Co-author, Tenth Circuit, "ERISA Basics: A Circuit By Circuit Survey," American Bar Association, 2005 - 2018 (updates)

Co-author, Misrepresentation in the Life, Health, and Disability Insurance Application Process: A National Survey

Speaker, "ERISA 101," Utah Labor and Employment Law Seminar, October 4, 2006

Speaker, "Fundamentals of The Americans With Disabilities Act Litigation," Utah Labor and Employment Law Seminar, May 3, 2006

Community Service

Provides pro bono services for Rocky Mountain Innocence Center

Regularly provides pro bono services for Utah Legal Services

Volunteer, Utah Children's Justice Center

Mentored youth seeking experience in the law and laws related fields

Volunteer, Boy Scouts of America

Peer Recognition

Utah Legal Elite, 2009-2018

Super Lawyers, 2012-2018