

ERISA & Group Litigation with DO&CB

d'Arcambal Ousley & Cuyler Burk, LLP ("DO&CB") specializes in ERISA and Group litigation representing administrators, insurers, and plans throughout New York, New Jersey, and Pennsylvania.

Here's what we do...

- We obtain summary judgment on behalf of insurers in suits to recover life, health, and disability benefits under ERISA plans.
- We successfully resolve ERISA-governed long-term disability benefits action in a cost-effective manner, frequently through mediation.
- We partner with corporate legal departments to develop program-wide litigation readiness to ensure that the discovery process is smooth, inexpensive, and to find ways to use discovery to the company's advantage.

...and here are some of the successes we've had:

- New Jersey District Court dismissed plaintiff's denial of coverage claim, holding that a company's denial of accidental death and dismemberment benefits, was not arbitrary and capricious under the sickness exclusion.
- Southern District of New York dismissed a provider's claim for facility fee benefits due to failure to exhaust administrative remedies. District Court rejected provider's motion to dismiss ERISA causes of action for unjust enrichment and equitable restitution with respect to plan administrator's counterclaim to recover facility fees erroneously paid.
- New Jersey District Court granted summary judgment on a disputed amount of AD&D benefits.
- Northern District of New York dismissed plaintiff's claim for damages under ERISA 510. District Court found that the plaintiff authorized the company to disclose information to relevant parties such as her employer. Further, District Court rejected the plaintiff's HPA claim—primarily because she lacked standing to bring a private right of action against the company.
- New Jersey District Court granted summary judgment holding that administrator was not estopped from asserting that the ERISA benefit plan participant's son was ineligible for coverage, and that the participant was not entitled to convert dependent coverage to an individual policy retroactively.
- Southern District of New York denied plaintiffs' motion to remand because the provider had claimed in its State Court complaint that the patient had assigned its claims to provider and rejected the provider's new claim that there was no assignment; the court held that ERISA pre-empted all of the state statutory and common law claims relating to claims under ERISA plans.



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About d’Arcambal, Ousley & Cuyler Burk LLP

For over twenty years, d’Arcambal Ousley & Cuyler Burk, LLP (DO&CB) has provided exceptional legal counsel to Fortune 500 companies and large financial institutions. For each client engagement, DO&CB emphasizes cost-effective approaches, early case assessments, and strategic planning and expertise. Our lawyers previously practiced in corporate legal departments and large law firms, so we understand the voice of the customer and its business and legal objectives. DO&CB is women-owned with offices in New York City, New Jersey and Philadelphia.

Featured Partners Handling ERISA & Group Litigation

Michelle J. d’Arcambal (Partner)

Ms. d’Arcambal has handled many and varied matters relating to life, health, and disability litigation, including ERISA, since 1994. She provides strategic advice regarding achieving litigation goals, including resolution. Based on her experience as an in-house litigator at MetLife, Ms. d’Arcambal focuses on achieving the business and legal objectives of her corporate clients. At MetLife, she managed sales practices class actions, managed outside counsel with respect to ERISA matters and responded to pre-litigation inquiries regarding individual products and ERISA plans. Previously a commercial litigation partner in the New York City office of Ross & Hardies, now known as McGuire Woods LLP, Ms. d’Arcambal was an associate at Brown & Wood, LLP, now known as Sidley Austin, LLP, and is a 1985 graduate of the University of Wisconsin Law School. She graduated from Smith College in 1981.



Jodie L. Ousley (Partner)

Ms. Ousley has handled many and varied matters relating to life, health, and disability litigation, including ERISA, since 2004. She has defended and resolved, through mediation or otherwise, long-term group (including ERISA) disability and life benefits matters. She has successfully litigated life and disability matters for fifteen years and provides strategic advice on risk assessment. In addition, she has successfully represented the interests of financial institutions in federal actions involving fraud, negligence, and ADA and DTPA claims. She began her legal career in New York City as an examining attorney for the Public Assistance and Grants Unit of the New York City Department of Investigation (DOI). Ms. Ousley attended Oxford University and Southern Methodist University School of Law, where she graduated cum laude in 1997. She received a B.A. degree in 1992 from the University of Texas.



Jaclyn DiLascio Malyk (Partner)

Ms. Malyk is a seasoned litigator with experience in the state and federal courts of New Jersey, New York and Pennsylvania. She focuses her practice on insurance law, including life, health, disability, insurance coverage, insurance products regulation and general contract litigation. Ms. Malyk has been extensively involved in litigating ERISA and non-ERISA disability and accidental death benefits claims, life insurance rescission actions, and disputes between providers and provider networks. Ms. Malyk gained invaluable experience during her tenure in the in-house law department of Prudential Group Insurance. She continues to provide transactional advice on state insurance and annuities regulations in connection with the development of new products and the operation of existing products, and has been instrumental in fostering program-wide proactive approaches to discovery to increase success and cost-effectiveness. Ms. Malyk graduated from Rutgers University in 1998 with a B.A., and received her J.D. from Seton Hall University School of Law in 2002.



Nada Maalouf Peters (Partner)

Ms. Peters’s practice focuses on life, health, disability and coverage litigation, tort defense litigation, and products liability. Ms. Peters litigates in state and federal courts throughout New Jersey, New York and Pennsylvania, as well as in other jurisdictions across the country. In ERISA and non-ERISA benefits matters, Ms. Peters has achieved favorable rulings at the trial and appellate levels as well as successfully resolved matters through early negotiation and mediation. Ms. Peters also counsels clients on handling and responding to conflict discovery requests. Prior to joining DO&CB in 2007, Ms. Peters litigated at Paul, Weiss, Rifkind, Wharton & Garrison LLP, where she honed her investigative skills while working on a two-year internal investigation of Fannie Mae. She is a graduate of City University of New York School of Law and State University of New York at Albany.

