

Employee Retirement Income Security Act (ERISA) Preemption

Plaintiffs often seek to use state law remedies to supplement or supersede the remedies that are available under Employee Retirement Income Security Act (ERISA). Many states are increasingly enacting legislation in the health care area that affect employer-provided coverage. These measures often give rise to litigation regarding the application and scope of the "complete preemption" doctrine and the express preemption provisions found in ERISA. Groom attorneys have extensive expertise in the area of ERISA preemption and have successfully advocated on behalf of clients with respect to the complex issues surrounding ERISA preemption. Representative work includes:

- Successfully argued that a state law prohibiting health care subrogation claims was not saved from preemption under ERISA's insurance savings clause.
- Currently representing insurance trades seeking to overturn a Michigan Insurance Department regulation prohibiting discretionary clauses in insured plans.
- Selected after a nationwide competition involving more than a dozen firms to represent the California employer community in arguing that ERISA preempted California's "Pay or Play" healthcare statute which required employers to pay a tax to the State to provide health coverage unless they complied with detailed requirements. The litigation became moot when the voters of California declined to approve the legislation in a referendum.