



Emily Seymour Costin

Associate

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PRACTICE AREAS

- Labor and Employment
- Litigation

OVERVIEW

Emily Costin is an associate in the Labor & Employment Practice Group in the firm's Washington, DC office.

Areas of Practice

Ms. Costin's practice focuses on various labor and employment, employee benefits and ERISA litigation matters.

Ms. Costin handles a range of matters arising under the Employee Retirement Income Security Act ("ERISA") on behalf of plan sponsors and fiduciaries. Ms. Costin has experience representing plan sponsors and fiduciaries involved in litigation, including actions related to the administration and investment of plan assets, the prudent selection and oversight of investment and other service providers, disclosure obligations, and prohibited transaction issues. In addition, Ms. Costin advises plan sponsors and fiduciaries of qualified and non-qualified pension and welfare benefit plans on compliance with the wide range of fiduciary duties required in the administration and investment of plan assets, including the prudent selection and oversight of investment and other service providers, disclosure obligations, and prohibited transaction issues. Ms. Costin also advises plan sponsors and fiduciaries on issues involving plan design and maintenance of tax qualified status.

Ms. Costin frequently represents employers in employment litigation and government investigations. She has significant experience litigating actions arising under the Fair Labor Standards Act, as well as claims for payment of wages, meal and rest periods, discrimination, harassment, wrongful termination, unfair competition, and breach of contract. She has experience defending against class actions, as well as managing the administration of large class action settlements. Ms. Costin represents employers in responding to administrative charges and in managing other investigations conducted by various governmental agencies. Ms. Costin also has experience in several areas of litigation, including government contract disputes and defending corporations and defense contractors in a range of civil and criminal fraud investigations and "whistleblower" lawsuits.

In addition, Ms. Costin frequently counsels employers on a variety of employment matters arising under both state and federal laws, including wage and hour issues, meal and rest periods, mass lay offs and shut downs, employee handbooks, leaves of absence, background checks, severance agreements, protection of trade secrets, covenants not to compete and solicit, employee hiring, discipline and termination.

Ms. Costin is a member of Sheppard Mullin's Washington, D.C. Recruiting Committee and Associates Committee. While attending law school, Ms. Costin served as the Notes Editor for the *Public Contract Law Journal*, a joint publication between the George Washington University Law School and the American Bar Association. Ms. Costin currently serves as Vice-Chair of the American Bar Association Tort Trial & Insurance Practice Section Employee Benefits Committee.

Ms. Costin is an Adjunct Professor of Law at the George Washington University Law School where she teaches Introduction to Oral Advocacy and Legal Research and Writing.

EDUCATION

- J.D., George Washington University, 2005, *with high honors, Order of the Coif*
- B.A., University of Pennsylvania, 2000, *with honors*

ADMISSIONS

- California
- District of Columbia
- United States District Courts for the Central, Southern and Northern Districts of California
- United States District Court for the District of Columbia
- United States District Court for the District of Maryland
- United States Bankruptcy Court for the District of Maryland

EXPERIENCE

Ms. Costin has recently represented clients in the following matters:

- Prevailed on a motion to dismiss all claims against biotechnology company arising from numerous alleged breaches of fiduciary duty under ERISA. See *Harris v. Amgen*, 2010 WL 744123 (C.D.Cal.2010). This decision was reported in *Employment Law 360* on March 3, 2010, [here](#).
- Represented fiduciaries in action against plan administrator, plan counsel and former fiduciaries for breach of fiduciary duty under ERISA including, failure to diversify plan investments, failure to act prudently in determining an investment plan, failure to discharge fiduciary duties in accordance with the plan's governing documents, failure to properly oversee the administration of the plan, and engaging in a prohibited transaction.
- Represented pension fund in investigation by the Internal Revenue Service.
- Defended pharmacy benefit manager in action brought by plan sponsor and administrator for alleged violations of ERISA, breach of fiduciary duty and breach of contract.
- Successfully second-chaired a trial in the District of Maryland, on behalf of employer, involving claims under the FLSA, and the Maryland Wage and Hour Act.
- Represented employee in an action against former employer for sexual harassment and violations of the Fair Labor Standards Act, the D.C. Wage Payment and Collection Act, the D.C. Wage and Hour Act, as well as assault, battery, conversion, negligence and intentional infliction of emotional distress.
- Defended multiple employers in class actions regarding alleged meal and rest period violations, off-the-clock work, and misclassification in the beverage and snack food industry.
- Defended employer in a class action regarding alleged misclassification of independent contractors and off-the-clock work in the telecommunication industry.

- Represented employer in nationwide class action regarding alleged misclassification and off-the-clock work of Sales Representatives in Insurance industry.
- Obtained summary judgment for public charter school in an action brought by former employee alleging race discrimination and retaliation in the Superior Court for the District of Columbia.
- Represented an international corporation in a *qui tam* False Claims Act lawsuit involving hundreds of defense contracts in which the whistleblowers alleged price fixing of certain materials which caused the U.S. Government to overpay for end items.
- Represented defense contractor in parallel criminal and civil investigations by the Department of Justice in which the whistleblower alleged claims of mail and wire fraud, and false statements to the government.

MEMBERSHIPS

- Member, State Bar of California
- Member, District of Columbia Bar
- Member, American Bar Association, Labor and Employment Law Section
- Member, American Bar Association, Tort Trial and Insurance Practice Section

ARTICLES

Co-author with Jonathan Rose of "Recent Developments in Employee Benefits Law", Tort Trial & Insurance Practice Law Journal, Winter 2009

Co-author with Jonathan Rose of chapter on "Estoppel as a Basis for Recovery for Misrepresentation" in the treatise ERISA Litigation, published by the Bureau of National Affairs, Third Edition (2008), and the 2009 Chapter Supplement

California Employment Privacy Law, Media Law Resource Center 50-State Survey: Employment Libel & Privacy Law (2008, 2009)

NMB: Internet Voting Adopted for Union Elections, Society for Human Resource Management, Workplace Law, Labor Relations (October 23, 2007)

Refining the Source of the Risk: Suspension and Debarment in the Post-Andersen Era, Public Contract Law Journal Vol. 34, No. 2 (Winter 2005)

Labor & Employment Law Blog Articles

"Inflexible Medical Leave Policies May Violate the Americans with Disabilities Act", September 4, 2009

"President Obama's First Law Makes it Easier for Employees to Sue for Pay Discrimination", January 30, 2009

"Ninth Circuit Arguably Leads the Way to Employer-Mandated Health Care", October 30, 2008

"U.S. Supreme Court Decides Two New Retaliation Cases", May 29, 2008

"California Supreme Court Agrees to Hear 'Administrative Exemption' Case", December 3,

2007

"Recent Court Case Reinforces Importance of Employers Providing Employees with Notice of the Right to Request Leave under the California Family Rights Act (CFRA)", May 16, 2007

"California Court of Appeal Declares Wage Order 16 Valid", May 11, 2007

Government Contracts Law Blog Articles

"President Obama's Executive Orders Dramatically Shift Labor Policy; Impact Federal Contractors", March 19, 2009

SPEECHES

- "Breakfast With Your Labor Lawyer", San Diego, CA (June 2007)