

Leslie Canfield Perlman

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Fiduciary Resolutions, Inc.

201 Shipyard Way A2, Newport Beach, CA 92663

PROFESSIONAL EXPERIENCE

Principal

current

Fiduciary Resolutions

Washington, D.C.

Newport Beach, CA

Provide consulting and expert assistance in litigation and pre-litigation evaluation of fiduciary duties and conduct for employee benefit plan fiduciaries and service providers under Title I of ERISA and other federal and state statutes. Review conduct of trustees, officers and directors and provide guidelines for best practices in financial transactions, securities, real estate, fiduciary, health plan and other responsibilities. Review settlements and assist in mediation or other settlement activities.

Counsel for General Litigation

1982-2016

**US Department of Labor, Plan Benefits Security Division, Office of the Solicitor,
Washington DC**

Direct oversight of 30+ attorneys responsible for enforcing Title I of the Employee Retirement Income Security Act of 1974 (ERISA). Advised and supported the Employee Benefits Security Administration (EBSA) on complicated enforcement issues.

Coordinated agency efforts with Department of Justice, Pension Benefit Guaranty Corporation, Internal Revenue Service, United States Trustees, Regional Department of Labor attorneys, Securities and Exchange Commission, Financial Industry Regulatory Authority and Securities Investor Protection Corporation. Managed and oversaw all cases filed against the Secretary. Responsible for budget, expert witness hiring and procurement, litigation costs and attorney travel.

Accomplishments:

- Supervised and/or conducted 9 major trials, numerous successful summary judgment motions, mediations and settlements (Bruister, Enron, Enron bankruptcy, Charter Medical, Palombo, Valley National Bank, Western Spray, Harline, Lindeman).
- Obtained ground breaking rulings in the areas of employee stock ownership plans, duties of board of directors toward company retirement plans, duties of trustees in

managing plan assets, purchasing stock and valuation principles, knowing participation in a fiduciary breach, fiduciary discharge in bankruptcy, misclassified workers, duties of independent fiduciaries, interpretation of the claims regulation and attorney client privilege.

- Supervised and designed: “best practices” papers for independent fiduciaries and valuation firms to be used by EBSA; standards and "best practices" for disability insurers and medical insurers; advise EBSA Valuation Working Group.
- Assisted in formulation and implementation of DOL litigating position on the measure of losses available under ERISA for fiduciary breaches, illegal stock purchases, adequate consideration and rescissionary remedies. Successfully coordinated DOL litigating positions with SEC, Department of Justice and United States Attorneys nationwide on ERISA issues.
- Solely responsible for Defensive litigation: defended challenges to Employee Benefits Security Administration's denial of exemptions, Pension Protection Act, Affordable Care Act and COBRA requirements.
- Supervise 502(c)(2) penalty administrative program, including the application of ERISA of Tribal Plans, established comprehensive case tracking system.
- Created individual training programs for office attorneys and SOL regional attorneys. Supervised individual and teams of litigation attorneys on how to assemble an ERISA lawsuit from investigation to trial. Interviewed and hired attorneys for Honors Program. Worked collaboratively with other managers to hire attorneys, staff cases and evaluate and promote attorneys.

Senior Trial Attorney/Trial Attorney

Office of the Solicitor US Department of Labor Plan Benefits Security Division

- Team leader and member of multi-attorney litigation teams.
- Extensive discovery, experience conducting investigations, motions practice, trial and appellate practice. Assisted EBSA in formulation of ERISA investigations.
- Developed law in area of fiduciary exception to attorney client privilege, duty of board of director member to monitor fiduciaries, ESOP financed leveraged buyouts, ESOP refinancing, investment in derivatives, purchase of annuities.
- Tried or won on summary judgment, multiple ERISA cases in District Court and on Appeal (Valley National Bank, Harline, Lindeman, Tomasso, Bruister).
- Conducted multiple mediations and obtained favorable settlement terms.

Appellate Attorney

Office of the Solicitor US Department of Labor, Mine Safety and Health Arlington, VA

- Wrote briefs and argued cases before United States Courts of Appeals, Federal District Courts and the Mine Safety and Health Review Commission.
- Reviewed cases for criminal violations, referred to Department of Justice.

EDUCATION

Juris Doctor, Vanderbilt University, Nashville, Tennessee

Bachelor of Science, (*cum laude and distinction*) Cornell University, Ithaca, New York

Bar Admissions: New York State, United States District Courts for the Southern, Eastern and Northern Districts of New York, United States Courts of Appeals for the Second, Third, Fifth, Sixth, Seventh, Eighth, Ninth, Tenth and Eleventh Circuits.

ADDENDUM

SUBSTANTIVE AREAS

Temporary Workers and Independent Contractors (Misclassified workers)

Filed first case concerning misclassified workers who were denied pensions and healthcare (Time Warner).

Healthcare

- Supervised team of attorneys reviewing denial of long term disability, medical and mental health, disability claims by major insurers.
- Identification of issues and defense of challenges to the Affordable Care Act.

Employee Stock Ownership Plans

- Lead trial attorney for six person legal team in groundbreaking lawsuit on imprudence and overpayment for employer stock by an ESOP. Won case on summary judgment (Valley National Bank); obtained favorable rulings on privilege and discovery issues.
- Led team for Enron ESOP litigation both in Bankruptcy Court and District Court. Negotiated for appointment of independent fiduciary for Enron ESOP. Designed and implemented never before auction of DOL bankruptcy claim to third party.
- Prepared best practices documents for valuation industry and ERISA fiduciaries in connection with the purchase of employer stock (used in GreatBanc settlement).
- Obtained favorable ruling on entire case and rulings on privilege and discovery; summary judgment motions yielded important ruling on availability of rescission as an equitable remedy. Conducted trial jointly with private plaintiffs' counsel. Decision was affirmed on appeal (Bruister).
- Worked collaboratively with New York Employee Benefits Security Administration in designing employer stock investigations, valuation of loan forgiveness and negotiation of acceptable settlements.
- Assisted in formulating enforcement position regarding ESOP refinancing.

Bankruptcy and Multi-Employer Welfare Arrangements

- Negotiated settlement of DOL claim with Enron bankruptcy estate.
- Preserved \$60 million VEBA (Health Fund for employees) from bankruptcy claim and claim by Securities Investor Protection Corporation (Lehman).

- Case of first impression where judgment against individual who set up underfunded multiemployer welfare scam was held by bankruptcy court to be nondischargeable (Palombo).
- Conducted novel and never before done sale of DOL bankruptcy claim.

Improper Investments by Pension Plans

- Investment in certificates of deposit issued by company (Agway).
- Investment in radio station and microwave (Lindeman).
- Economically targeted investments (Wheeler/ McCartney).
- Investment in thinly traded bank stock (Harline).
- Investment in mortgage derivatives (Cohen).
- Self-dealing loan servicing fees (National Bank of Alaska).
- Prohibited purchases of employer stock at inflated prices (Valley National Bank, Enron).
- Cross trading.
- CAP cases- investment advisors (Zenith).
- Purchase of employer stock (Bruister).

TRAINING, OUTREACH AND COORDINATION

- Conducted CLE for New York Bar Council on “stock drop cases.”
- Spoke on DOL enforcement for Certified Financial Analysts (Denver, CO).
- Designed and implemented training for ERISA counsels and attorneys nationwide when DOL decentralized ERISA litigation.
- EBSA training instructor: criminal investigations, Fifth Amendment rights, right to financial privacy, parallel investigations and investigative techniques.
- Coordinated litigating positions and enforcement with Securities and Exchange Commission (Enron), Pension Benefit Guaranty Corporation (Northwest Airlines bankruptcy and joint district court cases), Internal Revenue Service (Lindeman), United States Attorneys (COBRA, DOMA, Church Plans)
- Conducted multiple consolidated cases with private plaintiffs’ bar (Bruister, Lindeman, Agway, Tharaldson) including joint mediations, consolidated depositions and trials.

LITIGATION SKILLS

- Over thirty years of administrative, federal court and courts of appeals experience.
- Conducted/supervised 10 trials while at PBSA, numerous successful mediations and settlement conferences. In excess of \$600 million in judgments and recovery.
- Won major cases either at trial or on summary judgment which set new standards for ERISA fiduciary conduct (Valley National Bank, Harline, Lindeman, Bruister).
- Extensive experience in the conduct of litigation from investigation, discovery, motions practice, summary judgment, trial preparation, witness examination, post-trial motions, selection, retention and preparation of expert witnesses for

depositions and at trial.

- Successfully supervised team of six attorneys for complex ESOP one month lawsuit which was tried in Mississippi in the summer of 2014 with favorable judgment (Perez v. Bruister). Examined witnesses, including prudence expert as well as teaching attorneys how to examine witnesses and prepare all documents for trial. Taught new attorneys on team how to take depositions, conduct discovery and participate in mediations.
- Worked closely with Regional SOL attorneys and the private bar (Agway, Bruister).
- Responsible for coordination with the Department of Justice of all lawsuits against the Department of Labor.
- Supervised Independent Fiduciary charged with allocating recovery from various lawsuits.

SECRETARY'S EXCEPTIONAL ACHIEVEMENT AWARDS

Enron litigation team; Enron Bankruptcy Claim team; Valley National Bank; Charter Medical ESOP; Western Spray Litigation; Zenith Derivatives Litigation Group; Palombo Bankruptcy; Agway Hewitt/Enron Contempt Action; Smith Litigation Team (annuities selection); Annuities Enforcement Group; IUPIW (multiemployer welfare arrangement); National Bank of Alaska; Northwest Airlines Bankruptcy and Pension Plans (with PBGC); DOL Civil Penalty Program; and, Bruister ESOP trial.