



Philip R. O'Brien Shareholder

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Philip O'Brien has long cultivated a dedicated practice serving Taft-Hartley clients across the United States. He has an unwavering passion for helping his clients protect health care and pension benefits that affect the lives and futures of thousands of plan participants and their families.

As a shareholder in Reinhart's Employee Benefits Practice, Phil represents multiemployer self-funded benefit plans governed by the Employee Retirement Income Securities Act (ERISA). He frequently assists clients in the protection of subrogation and reimbursement rights, collection of delinquent benefit contributions, contract enforcement, withdrawal liability, ERISA litigation and fiduciary conflicts.

Phil takes the time to listen carefully to his clients so he can provide recommendations to plan fiduciaries that are in the best interest of the plan participants.

He is a proactive legal partner, quickly identifying potential problems and resolving them before they arise. Phil efficiently analyzes each unique situation and provides viable options and advice on the most practical way forward. He collaborates with plan trustees, administrators, accountants, actuaries, financial advisers, money managers and other professionals to offer effective solutions and drive positive results.

Phil is an experienced author and speaker, frequently presenting at the International Foundation of Employee Benefit Plans (IFEBP) annual conference and publishing articles on ERISA collection matters, contract enforcement and health plan subrogation and reimbursement rights.

Phil serves on the National Board of Directors for the American Cancer Society Cancer Action Network, the advocacy arm of the American Cancer Society. He enjoys walking, sports events, movies, reading and many styles of music.

Education

- J.D., Marquette University Law School



- B.A., magna cum laude, Marquette University (Alpha Sigma Nu)

Bar Admissions

Wisconsin

Court Admissions

- U.S. Court of Appeals, Seventh Circuit
- U.S. District Court, Eastern District of Wisconsin
- U.S. District Court, Western District of Wisconsin
- U.S. District Court, Northern District of Illinois
- U.S. District Court, Eastern District of Michigan
- U.S. District Court, Western District of Michigan
- U.S. District Court, Northern District of Oklahoma
- U.S. District Court, Northern District of Texas
- U.S. District Court, District of Rhode Island
- U.S. District Court, Middle District of Florida

Practices

- Employee Benefits
- Litigation

Services

- Multiemployer Plan (Taft-Hartley)
- ERISA and Employee Benefits Litigation
- Qualified Retirement Plans

Matters

- Winning a U.S. Seventh Circuit Court of Appeals decision that confirmed ERISA multiemployer plans can charge interest and liquidated damages to signatory employers that do not make timely contributions to health and pension plans. This decision has had far-reaching economic consequences for the protection of participants of the plans, as well as the authority of fund trustees under ERISA and federal common law. *Operating Engineers Local 139 Health Benefit Fund v. Gustafson Construction Corp.*, 258 F.3d 645 (7th Cir. 2001)
- Acted as co-counsel for a statewide ERISA multiemployer health plan, encountering numerous complexities and events while the plan was subject to federal court oversight with a court-approved fiduciary serving on the Board of Trustees
- Initiated and successfully prosecuted ERISA 502(a)(3) claims in various federal district courts to ensure enforcement of subrogation and reimbursement rights of health and disability plans

- Prevailed in a U.S. Seventh Circuit Court of Appeals decision that affirmed ERISA multiemployer benefit plans' rights to review nonunion payroll records to complete trustees' fiduciary duty to ensure proper and accurate contributions are made on behalf of participating employees. *Electrical Construction Industry Prefunding Credit Reimbursement Program et al. v. Veterans Electric LLC*, Case No. 19-1051 (7th Cir. 2019)

Honors & Affiliations

Honors

- Wisconsin Top Rated Lawyer Martindale-Hubbell AV® Preeminent™ Peer Review Rated
- Member, National Board of Directors, American Cancer Society Cancer Action Network (2020-present)
- Member, Professionals Committee, International Foundation of Employee Benefit Plans (2013-2019; chair, 2018-2019). The Professionals Committee is an appointed team of sixteen professionals, including accountants, actuaries, consultants and attorneys, from across the United States
- Member, American Cancer Society Wisconsin State Leadership Board, 2011 – 2019 (Chair 2014 & 2015)
- Selected for inclusion in Wisconsin Super Lawyers, since 2005

Affiliations

- International Foundation of Employee Benefits Plans (Professional Committee 2013-2015 & 2017-2019; Professional Committee Chair 2018 & 2019)
- American Cancer Society Cancer Action Network
- American Cancer Society Midwest Division
- American Cancer Society Wisconsin Leadership Board
- State Bar of Wisconsin
- Milwaukee Bar Association
- American Bar Association
- Greater Milwaukee Employee Benefits Council

Presentations

- "Team Collections"; "Collections Process and Professionals"; "Unique Collection Issues"; and "Securing Payment & Wrap Up" -- International Foundation of Employee Benefit Plans Collection Procedures Institute, Miami,

Florida, November 14 & 15, 2022

- “Payroll Auditing: Can A Stronger Delinquency Policy Improve Audit Results?” and “Challenges For Payroll Auditing,” International Foundation of Employee Benefit Plans 68th Annual Employee Benefits Conference, Las Vegas, Nevada, October 25, 2022
- “Your Guide To Collection Litigation”; “Beyond The Signatory Employer”; “Mock Delinquency Meetings – Tackling the Agenda”; and “Collections Wrap Up – Answering Your Questions” – International Foundation of Employee Benefit Plans Collection Procedures Institute, New Orleans, Louisiana, November 10 & 11, 2021
- “Working With Your A-Team,” International Foundation of Employee Benefit Plans 67th Annual Employee Benefits Conference, Denver, Colorado, October 18 & 19, 2021
- “Working With Your A-Team (For Trustees),” International Foundation of Employee Benefit Plans 65th Annual Employee Benefits Conference, San Diego, California, October 21 & 22, 2019
- “Team Collections”; “Your Guide To Collection Litigation”; “Beyond The Signatory Employer”; and “Collections Wrap Up – Answering Your Questions” – International Foundation of Employee Benefit Plans Collections Procedures Institute, Boston, Massachusetts, September 25 & 26, 2019
- “Trustee Attrition, Recruitment and Succession,” International Foundation of Employee Benefit Plans 64th Annual Employee Benefits Conference, New Orleans, Louisiana, October 16, 2018
- “Approaches To Effective Collection Practices,” International Foundation of Employee Benefit Plans 63rd Annual Employee Benefits Conference, Las Vegas, Nevada, October 2017
- “Insolvent Pension Plans,” Panel Facilitator, and “Fringe Benefit Plan Delinquency Controls,” Presenter, International Foundation of Employee Benefit Plans 61st Annual Conference, Honolulu, Hawaii, November 2015
- “Subrogation and Reimbursement,” International Foundation of Employee Benefit Plans 60th Annual Conference, Boston, Massachusetts, October 2014
- “Keeping the Record Straight: Trustee Meeting Minutes,” International Foundation of Employee Benefit Plans 60th Annual Conference, Boston, Massachusetts, October 2014
- “Withdrawal Liability,” International Foundation of Employee Benefit Plans Trustees & Administrators Institute; Orlando, Florida and Las Vegas, Nevada; February and June, 2014
- “Collection Issues For Health and Benefit Plans,” International Foundation of Employee Benefit Plans Collection Procedures Institute, Boston, Massachusetts, September 18, 2013
- “Beyond The Signatory Employer (Corporate Alter Egos),” International Foundation of Employee Benefit Plans

Collection Procedures Institute, White Sulphur Springs, West Virginia, September 22, 2011

Publications

- "Preservation of Plan Assets Through Subrogation and Reimbursement Rights," Chapter 24, [*The Trustee Handbook: A Guide To Labor-Management Employee Benefit Plans, Eighth Edition*](#) (L. Beebe, Editor), published by the International Foundation of Employee Benefit Plans (2017)
- "The Appointment, Monitoring and Removal of Trustees," Chapter 7, [*The Trustee Handbook: A Guide To Labor-Management Employee Benefit Plans, Eighth Edition*](#) (L. Beebe, Editor), published by the International Foundation of Employee Benefit Plans (2017)
- "Follow The Money: ERISA Reimbursement Tactics One Year After Montanile," *Benefits Magazine*, Volume 54, Nos. 2 & 3 (February and March 2017).
- "Preservation of ERISA Plan Assets Through Subrogation and Reimbursement Rights," Chapter 24, *Self-Funding Health Benefit Plans* (J.C. Garner, editor), International Foundation of Employee Benefit Plans Press (2015)
- "Benefit Basics: Being A New Trustee," *Benefits Journal*, Volume 49, No. 3 (March 2012)
- "Subrogation and Reimbursement." Chapter 53, *Trustee Handbook: A Guide To Labor-Management Employee Benefit Plans*, Seventh Edition (C. Kordus, Editor) (2011)
- "The Appointment, Monitoring & Removal of Trustees," Chapter 11, *The Trustee Handbook: A Guide To Labor-Management Employee Benefit Plans*, Seventh Edition (C. Kordus, Editor), published by the International Foundation of Employee Benefit Plans (2011)
- "Preservation of Plan Assets through Enforcement of Subrogation and Reimbursement Rights," *Benefits & Compensation Digest*. Volume 44, Nos. 1 & 2 (January & February 2008)
- "Enforcing Interest and Liquidated Damage Penalties Under *Operating Engineers Local 139 Health Benefit Fund v. Gustafson Construction Corporation*." *Employee Benefits Journal* Volume 27, Number 1 (March 2003)