

## David Tetrick, Jr.

Partner

*Trial and Global Disputes*

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David Tetrick specializes in defending leading companies in ERISA class actions, director and executive compensation litigation and other complex employee benefits disputes. He is listed in *Best Lawyers in America* and *Legal 500* as a leading ERISA litigator, and *Chambers USA: America's Leading Business Lawyers* praised his “spirited and focused” approach to ERISA class action litigation.

For more than 20 years, David has represented Fortune 500 companies, private equity firms and other leading businesses across the country in complex commercial disputes, with an emphasis on three related areas: ERISA class action defense; complex employee benefits litigation; and disputes and internal investigations involving executive compensation arrangements. David leads our ERISA Litigation practice, working with clients to develop and execute sensible strategies to solve problems in this sensitive and highly regulated area. He aims to provide creative solutions based on practical legal advice offered in plain English.

Prior to attending law school, David served in the U.S. Army as a noncommissioned officer aboard medevac helicopters. He was awarded the Bronze Star Medal with "V" Device for service during the First Gulf War (Operation Desert Storm).

### Matters

Defended and obtained dismissal of all claims against **Peabody Energy Corporation**, the world's largest publicly-traded coal company, in an ERISA class action alleging the company's stock was an imprudent investment for its 401(k) plan.

Defended **The Coca-Cola Company** in an ERISA “stock drop” class action brought by participants in the company's 401(k) plan alleging that the plan's fiduciaries breached their duties by failing to divest the plan of Coca-Cola stock, and obtained dismissal of claims.

Defended and obtained dismissal of all claims against **Waste Management, Inc.** in a shareholder derivative case in Delaware Chancery Court challenging equity grants to its Board of Directors.

Defended and obtained dismissal of all claims against **SunTrust Banks, Inc.** in two ERISA class actions brought by participants in the company's 401(k) plan alleging the plan's fiduciaries breached their fiduciary duties by offering affiliated mutual funds that allegedly charged “excessive fees.”

Defended and obtained dismissal of all claims against **National Imaging Associates (a Magellan Health Company)** in a managed care ERISA class action brought by a medical services provider against NIA and a major insurer alleging breaches of fiduciary duty under federal and state law.

Defended **The Home Depot** in an ERISA class action alleging the company's stock was an imprudent investment for its 401(k) plan. In a case of first impression, convinced the Eleventh Circuit U.S. Court of Appeals to affirm the district court's dismissal of all claims.

Defended **The Coca-Cola Company** in an ERISA class action brought by participants in the company's long term disability plan challenging the company's ability to offset benefits to account for participant's receipt of Social Security disability payments. Obtained summary judgment on plaintiffs' claims, and successfully defended judgment on appeal.

Defended and obtained dismissal of all claims against **Bank of America** in an ERISA class action alleging improper valuation by ESOP trustee of shares in closely held company's employee stock ownership plan (ESOP).

Defended **Lone Star Funds**, the global private equity firm, in a dispute concerning ERISA withdrawal liability allegedly owed by one of its portfolio companies.

Defended **Amedisys, Inc.** in an ERISA class action alleging the company's stock was an imprudent investment for its 401(k) plan.

Advised a Special Committee of the Board of Directors of **a publicly-traded biotech company** in investigating a dispute between the company and its former CEO concerning benefits due under an ERISA "top hat" plan as a result of change in control. Subsequently, represented the same Special Committee in investigation of claims made by another former executive officer under his change in control agreement.

Advised fiduciaries of ERISA-governed retirement plans of **a Fortune 100 company** in investigation of losses suffered as a result of investments related to subprime mortgages and related derivative investments.

Advised fiduciaries of ERISA-governed retirement plans of **a publicly traded industrial goods company** in the investigation of losses incurred as a result of investments related to subprime mortgages and related derivative investments.

Advised **a publicly traded financial institution** in audit committee investigation relating to senior management's executive compensation arrangements.

Advised a Special Litigation Committee of the Board of Directors of **a publicly traded energy company** investigating allegations in a shareholder demand letter related to the Chief Executive Officer's compensation.

Advised **a Fortune 50 company** in internal investigation of losses suffered by its ERISA-governed retirement plan as a result of investments in a structured investment vehicle and the plan's securities lending program.

## Credentials

### EDUCATION

J.D., University of Florida, with honors

B.A., University of Central Florida

## ADMISSIONS

U.S. Court of Appeals for the Eleventh Circuit  
U.S. District Court for the Middle District of Florida  
U.S. District Court for the Northern District of Florida  
U.S. District Court for the Southern District of Florida  
U.S. District Court for the Middle District of Georgia  
U.S. District Court for the Northern District of Georgia  
Florida  
Georgia

## ASSOCIATIONS

American Bar Association  
State Bar of Georgia  
The Florida Bar

## Recognition

Leading ERISA litigator  
LEGAL 500

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Leading ERISA litigator  
BEST LAWYERS IN AMERICA

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“Spirited and Focused” approach to ERISA class action litigation  
CHAMBERS USA: AMERICA’S LEADING BUSINESS LAWYERS

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Georgia Rising Star  
ATLANTA MAGAZINE AND LAW & POLITICS, 2005, 2006

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Approved Counsel on AIG’s Fiduciary Liability (ERISA) panel (one of only three such lawyers in Georgia)

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## Insights

### ARTICLE

January 15, 2020 • Source: Law360  
Justices Seem Keen To Solve ERISA Case's Article III Question

### CLIENT ALERT

January 27, 2020  
The SECURE Act Reduces—But Does Not Eliminate—Litigation Risk of Offering Annuities in 401(k) Plans

November 20, 2019  
Justices Grapple with Interplay between ERISA and Securities Laws at Oral Argument

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## Events

## SPEAKING ENGAGEMENT

*May 1, 2019*

David Tetrick, Darren Shuler to Speak at Plan Sponsor Council of America's 2019 National Conference

## News

### IN THE NEWS

*May 29, 2020 • Source: Law360*

David Tetrick, Darren Shuler and Alexander Gray counsel Cumulus Media in a class action 401(k) dispute

*March 12, 2020 • Source: Law360 and Bloomberg Law*

David Tetrick advises SunTrust on a settlement with its former employees

### RECOGNITION

*August 21, 2020*

The Best Lawyers in America Recognizes 128 King & Spalding Lawyers in its 2021 Guide

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