



## Employee Benefits

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## Retirement Plans



- **Defined Benefit Pension Plans**
  - Freezes, Terminations, Conversions and Benefit Reductions
  - Funding
    - Managing to the balance sheet
    - Liability driven investments
    - Legislative relief
  - No Pension Incentives in Reductions in Force
  
- **Defined Contribution Plans**
  - Match reduction / elimination
  - Stock drop litigation

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- Review of Fiduciary Practices
- Withdrawal Liability
  - Common triggers: closures, decertification and asset sales
  - Substantial increases for 2010 withdrawals

- Federal 65% COBRA Subsidy for employees *involuntarily* terminated between September 1, 2008 and February 28, 2010
  - Original 9-month period extended to 15 months
- Notice Requirements
  - Notice of Extension and updated standard COBRA (Subsidy) Notice
- Transition Period
  - Between 9<sup>th</sup> and 15<sup>th</sup> month of receiving the subsidy – Retroactively
  - Credit or reimbursement of overpayments of premiums
- Planning Opportunities under Separation Agreements
  - Subsidy provided by employers
  - COBRA period commences shortly after termination or at a deferred date

## Severance Agreements vs. Plans



- If an Agreement, not covered by ERISA but state law
  - Contract, tort, state statutes
- If a Plan, covered by ERISA
  - Litigation Advantage
    - Preemption
    - Standard of review
    - Jury trial
    - Remedies (attorney's fees)
- ERISA-fy Severance Arrangements
  - Written, state that ERISA applies, contain claim procedure, provide right to amend, modify or terminate

## Wellness Programs



- Why have a wellness program?
- Types of wellness programs.
- Final HIPAA Regulations.
  - No discrimination on the basis of a health factor.
  - However, plans may offer incentives to participants who meet specified health standards (or reasonable alternative standards).
- Genetic Information Nondiscrimination Act of 2008 (GINA). GINA prohibits discrimination in health coverage based on genetic information.
  - Under GINA, health risk assessments may not request genetic health information.