314-236-0065 tclark@wagnerlawgroup.com LinkedIn: thomaseclarkjr

SUMMARY

Tom Clark is a partner with The Wagner Law Group, a certified woman-owned law firm specializing in ERISA and Employee Benefits. He also serves as the firm's chief operating officer and manages the St. Louis office. Tom's expertise encompasses all aspects of employee benefits including the design, implementation, and compliance of retirement plans, health and welfare plans, and executive and incentive compensation arrangements. He also has a robust practice assisting service providers such as investment advisors and third party administrators in meeting their ERISA compliance needs. Tom's vast litigation experience includes defending plan sponsors and service providers, and has included work on landmark ERISA cases such as Tibble v. Edison, which was decided by the U.S. Supreme Court. He also regularly defends ERISA fiduciaries against investigations by the Department of Labor and the Internal Revenue Service, and is often retained to assist in resolving prelitigation disputes, thus avoiding the cost and uncertainty of a court battle.

Tom has been quoted extensively as an ERISA and employee benefits expert by outlets such as Reuters, The Associated Press, Bloomberg, and Forbes. He regularly travels the country speaking to groups of up to 2,000 people about important ERISA and employee benefits topics. For the past 7 years, Tom has taught ERISA Fiduciary Law as an adjunct professor at his alma mater, The Washington University in St. Louis School of Law, where he earned his JD and LL.M. degrees. He is a member of the bar in Missouri and Illinois.

EMPLOYMENT

The Wagner Law Group - Boston, MA & St. Louis, MO

Partner, Chief Operating Officer (February 2015 - Present)

- Counsel employers in all aspects of employee benefits design, implementation and compliance for all types of benefits programs, including: retirement plans, health and welfare plans and executive and incentive compensation arrangements
- Counsel retirement industry service providers in all aspects of their fiduciary duties and compliance obligations in providing services to plan sponsors, plan participants, and qualified retirement plans.
- Draft white papers for service providers concerning all aspects of ERISA
- Litigate all types of claims related to employee benefit plans, including ERISA fiduciary breach matters and benefit denials
- Manage operations and strategic decision making regarding innovation, knowledge management, marketing, technology, the firm library, and recruitment of associates and rising partners.
- Serve as the firm's general counsel and ethics officer.

The Lowenbaum Partnership - St. Louis, MO

Partner – Employee Benefits Team (May 2014 - February 2015)

- Counseled employers in all aspects of employee benefits design, implementation and compliance for all types of benefits programs, including: retirement plans, health and welfare plans and executive and incentive compensation arrangements
- Counseled retirement industry service providers in all aspects of their fiduciary duties and compliance obligations in providing services to plan sponsors, plan participants, and qualified retirement plans.
- Drafted white papers for service providers concerning all aspects of ERISA
- Litigated all types of claims related to employee benefit plans, including ERISA fiduciary breach matters and benefit denials

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FRA PlanTools - St. Louis, MO

Chief Compliance Officer, Director of Fiduciary Oversight,

General Counsel (March 2013 - May 2014)

- Developed and provided ERISA consulting and compliance products to plan sponsors and service providers
- Taught custom ERISA training to plan sponsors and service providers
- Drafted white papers for service providers concerning all aspects of ERISA
- Developed and implemented online social media and marketing strategy
- Provided expert witness services to law firms concerning ERISA

Schlichter, Bogard & Denton - St. Louis, MO

ERISA Associate (July 2008 - March 2013)

- Litigated complex ERISA class action cases and appeals
- Researched complex issues of law related to ERISA and state pension fiduciary law, securities laws, financial investing for institutional clients, and complex litigation
- Responsible for primary communications with clients
- Drafted affirmative and responsive summary judgment, class certification, discovery, appellate memoranda, and written discovery
- Researched, developed, and implemented strategy for depositions including parties, Rule 26 designated experts, apex witnesses, and third parties
- Coordinated Rule 26 designated expert reports and testimony
- Experienced with document production exceeding five million pages

Bryan Cave, LLP - St. Louis, MO

LL.M. in Taxation Unpaid Legal Intern (Fall 2007)

• Supported Employee Benefits and Executive Compensation Client Service Group in the areas of defined contribution plans, defined benefit plans, executive compensation, COBRA, HIPAA, international benefits taxation, and securities law

ACADEMIC EMPLOYMENT

Washington University School of Law - St. Louis, MO

Adjunct Professor of Law (February 2014 - Present)

• Teach ERISA Fiduciary Law spring semester course to JD and Tax LL.M. students

Boston University School of Law - Boston, MA

Adjunct Professor of Law (September 2022 - Present)

Teach ERISA Regulation of Retirement Plans fall semester course to JD and Tax LL.M. students

EDUCATION

Washington University School of Law - St. Louis, MO (May 2008)

LL.M. in Taxation; Employee Benefits Focus

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Washington University School of Law - St. Louis, MO (May 2007)

Juris Doctorate

Notre Dame London Law Centre - London, England (Summer 2005) Courses in European Union Law and International Human Rights Law.

The College of New Jersey - Ewing, NJ (May 2004)

B.S., Economics, cum laude

BAR ADMISSIONS

- Missouri (July 2007)
- Illinois (February 2008)
- Southern District of Illinois (October 2008)
- Eastern District of Missouri (September 2014)
- Massachusetts (December 2021)

PROFESSIONAL AFFILIATIONS

- American Bar Association (2008-present)
- Missouri Bar Association (2008-present)
- American Society of Pension Professionals & Actuaries (ASPPA) (2015-present)
- National Association of Plan Advisors (NAPA) (2015-present)
- Retirement Advisors and Designers of America (RADA) (2016-present)
- Plan Consultant Magazine Editorial Board (2016-2019)
- Betterment for Business Advisory Board (2015-present)
- The College School, Board of Trustees (2017-2019)
- The Holmstead School, Board of Trustees (2019-present)
- Friends of Arch Grants, Founding Board Member (2013-2016)

PUBLICATIONS (PRINT AND WEB)

- <u>Deadline Looms for PTE 2020-02 Full Compliance, Are You Ready?</u> 401 (k) Advisor (June 2022) (with Kim Shaw Elliott)
- <u>Do you or Wealth Managers in Your Firm Recommend Rollovers? Don't wait to Provide PTE 2020-02 Compliant Rollover Forms</u> 401 (k) Advisor (March/April 2022) (with Kim Shaw Elliott)
- <u>Preparing for a DOL Plan Examination. What Fun!</u> 401 (k) Advisor (October 2021) (with Kim Shaw Elliott)
- <u>Must Death Distributions under 10-Year Rule be Taken Annually?</u> 401 (k) Advisor (June 2021) (with Kim Shaw Elliott and Jon Schultze)

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- <u>Last Word: Preparing for Coverage of Long-Service Part-Time Employees in 401(k) Plans in 2024</u> 401 (k) Advisor (March 2021) (with Barry Salkin)
- <u>401(k) Marketing Podcast</u> Make Your Own Luck as a Retirement Plan Professional (January 2021)
- The Debate over Plan Participant Data as ERISA Plan Assets 401(k) Advisor (September 2020)
- <u>Last Word: Department of Labor Proposes Surprise Regulation Governing ESG Funds</u> 401(k) Advisor (August 2020)
- <u>Service Agreement Check Up in Light of COVID-19 Changes to Business Operations</u> 401(k) Advisor (June 2020) (With Barry Salkin)
- <u>Learning Management Systems are Coming of Age</u> Plan Consultant Magazine (Spring 2020)
- <u>Proposed DOL Electronic Disclosure Regulations Raises Additional Interesting Questions 401(k)</u> Advisor (January 2020) (With Barry Salkin)
- <u>Year-End Plan Amendments</u> 401(k) Advisor (November 2019)
- <u>Has The Pendulum Swung?</u> 401(k) Advisor (July 2019) (with Ellen Stone)
- <u>2018 Legislative and Regulatory Changes to 401k Plans</u> 401(k) Advisor (January 2019) (with Ellen Stone)
- <u>Strengthening Retirement Security</u>, 401(k) Advisor (October 2018) (with Ellen Stone)
- <u>Final Demise of Department of Labor Fiduciary Rule What Does This Mean for Advisors?</u>, 401(k) Advisor (September 2018)
- Fact vs. Fiction of Hiring a 3(38) Investment Manager, Franklin Templeton Investments (August 2018)
- Is a Wave of ERISA Litigation Coming for Small Plans?, 401(k) Advisor (August 2018)
- <u>The Pendulum Swings Again</u>, 401(k) Advisor (August 2018) (with Ellen Stone)
- <u>Retirement Income Best Practices Checklist</u>, Franklin Templeton Investments (August 2018)
- <u>401k Loans Are You Doing it Right</u>, 401(k) Advisor (August 2018)
- <u>Documentation Best Practices for ERISA Fiduciaries</u>, 401(k) Advisor (October 2017) (with Ellen Stone)
- <u>Secretary of Labor Finally Confirmed</u>, 401(k) Advisor (July 2017)
- <u>Uncharted Waters: The New Department of Labor Under President Trump</u>, Plan Consultant Magazine (Summer 2017)
- The Future of the Department of Labor Conflict of Interest Rule is Murky, 401(k) Advisor (April 2017)
- Updating Your Service Agreements to Address Cybersecurity Issues, 401(k) Advisor (April 2017)
- EPCRS: What's in it for the Plan Sponsor?, 401(k) Advisor (April 2017)
- <u>IRS Provides New Guidance on Plan Correction Procedures</u>, 401(k) Advisor (December 2016)
- <u>Church Plan Litigation May Be Headed to the Supreme Court</u>, Plan Consultant Magazine (Summer 2016)
- <u>The Recent Wave of ERISA Litigation is Turning Into a Tsunami</u>, 401(k) Advisor (May 2016)
- The Evolution of ERISA Fiduciary Best Practices, Investments & Wealth Monitor (March 2016) (with Marcia S. Wagner)
- <u>Supreme Court Declines to Hear Case Addressing the Intersection of ERISA and Bankruptcy Law</u>, 401(k) Advisor (February 2016)
- <u>Fiduciary Responsibilities for Church Plans</u>, Plan Consultant Magazine (Winter 2015) (with Dannae Delano and Jamie Mahler)
- <u>ERISA Litigation Round Up</u>, Plan Consultant Magazine (Fall 2015)
- <u>Some Questions Answered About the Duty to Monitor A Reflection on the Supreme Court Decision</u> <u>in Tibble v. Edison International</u>, 401(k) Advisor (August 2015)
- <u>A Preview of Tibble v. Edison at the Supreme Court</u>, 401(k) Advisor (March 2015)

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- <u>Fiduciary Responsibilities for Governmental Plans</u>, Plan Consultant Magazine (Spring 2015) (with Dannae Delano and Jaime Mahler)
- ERISA's Exemptions on Its 40th Birthday: A Midlife Crisis?, NIPA.org (October 16, 2014)
- <u>Exemptions Leave Church, State Plans Vulnerable</u>, Benefitspro.com (September 2, 2014)
- <u>Fiduciary Responsibilities for Non-ERISA Non-profit 403(b) Plans</u>, Plan Consultant Magazine (Fall 2014) (with Dannae Delano and Jamie Mahler)
- <u>The Changing State of Provider Litigation</u>, 401(k) Advisor (August 2014)
- <u>Church Plan Litigation is Headed for a Standoff in the Circuit Courts (or Beyond)</u>, NTSA MarketBeat (June 17, 2014)
- The Moench Presumption to Be Addressed by the US Supreme Court, 401(k) Advisor (February 2014)
- <u>ERISA § 408(b)(2)</u> The Deadline Has Passed but There Is More Work Ahead, Journal of Pension Benefits (February 2014) (with David J. Witz)
- <u>Could You Provide These Documents to the DOL in Ten Business Days?</u>, 401(k) Advisor (October 2013)
- Editor-in-Chief of the Fiduciary Matters Blog and ERISA Litigation Index, a blog visited nearly 150,000 times between 2013 and 2017 <u>http://www.fiduciarymattersblog.com</u> (archived)

SPEAKING ENGAGEMENTS

- NAPA Webcast: Litigation Lowdown, NAPA Webinar (June 7, 2022)
- ERISA Litigation Against Advisors Case Studied and How to Prepare Updated for 2022, Commonwealth Retirement Symposium, Austin, TX (May 23-25, 2022)
- Words of Wisdom from Your Friendly Neighborhood ERISA Attorney/ERISA Litigation Update: A Focus on Advisors, Cambridge Retirement Plan Summit, Kansas City, MO (May 16-18, 2022)
- "After" Map: Setting Up a Successful Succession Plan, NAPA Summit, Tampa Bay, FL (April 4, 2022)
- Litigation and the Impact on the Retirement Industry, DCIIA Litigation Webinar (February 16, 2022)
- Relationship Pricing, Rollovers and More-What's Allowed?/Does ESG Investing Have a Place in Retirement Plans?, Wealth@Wor(k) Conference, Nashville, TN (October 25-26, 2021)
- 403(b)etter and (b)est/ "Battle" Grounds: Financial Planning and Wellness, and the Battle for "the Participant" (Between Advisors and Providers), NAPA Summit, Las Vegas, NV (September 13-14, 2021)
- Future Focused: What You Need to Know About PEPs, MEPs, and 3(38)s/Managed Accounts and Rollovers, OneDigital Evolve Retirement + Wealth National Conference, Kansas City, MO (August 31-September 1, 2021)
- DOL Cybersecurity Guidance What Advisors Need to Know for Themselves and Their Plan Sponsor Clients/This DOL Rule Isn't Going Anywhere How to Get Ready for the December Compliance Guideline, Cambridge Retirement Plan Summit, Cleveland, OH (August 1-4, 2021)
- Regulatory Changes under the Biden Administration, ERISA Virtual Roundtable, Cambridge, (April 27, 2021)
- Legislative Update (SECURE, CARES, Portman Cardin and More), Plan Advisor National Conference 2020, (September 16, 2020)
- Pruden "Mien": Proving Prudence and Participant Loyalty A Plan Committee Defends Itself, NAPA Cyber Summit 2020 (September 10, 2020)
- Managing Through the Crisis Webinar: Litigation Risk Considerations for Plan Sponsors, DCIIA Litigation Webinar (May 11, 2020)

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- Plan Sponsor Considerations for the COVID-19 Era, Beyond the CARES Act Webinar, HUB International (April 22, 2020)
- Regulatory, Legislative, and Litigation Update for Retirement Plans, National LINC 2020 Conference, Orlando, FL (January 30, 2020)
- Intro to Travel Hacking: Maximizing Airline and Hotel Points, 2019 401(k) Excel: The Advisors' Conference, Dallas, TX (October 28, 2019)
- *The Latest Trends in Plan Sponsor ERISA Litigation*, 2019 401(k) Excel: The Advisors' Conference, Dallas, TX (October 29, 2019)
- Best Practices for ERISA Small and Large Plan Fiduciaries, Private Plan Sponsor Event, Honolulu, HI (July 9, 2019)
- Impacts of a Changing Environment: A Legislative, Regulatory, and Fiduciary Update, J.P. Morgan 2019 Defined Contribution Summit, New York, NY (May 22, 2019)
- ERISA Litigation Update for Plan Sponsors, Cambridge Retirement Plan Summit, Charlotte, NC (May 16, 2019)
- Advisor Compliance Case Studies, Cambridge Retirement Plan Summit, Charlotte, NC (May 15, 2019)
- Sue "Veneer": Why Even Good Advisors Get Sued (panel), 2019 NAPA 401(k) Summit, Las Vegas, NV (April 7, 2019)
- Retirement Plan Legislative & Regulatory Update, TD Ameritrade National LINC 2018 conference, Orlando, FL (February 2018)
- Current Status of the DOL Conflict of Interest Rule & Related State Initiatives, Webinar for the Financial Planning Association (August 2017)
- You've Been Served: A Plan Sponsor's Look into ERISA Litigation, Webinar for Sheridan Road Financial (July 2017)
- ERISA Litigation and the Best Interest Contract Exemption, NAPA D.C. Fly-In Forum, Washington, D.C., (July 2017)
- DOL Fiduciary Rule Hot Topics, Sheridan Road Conference, Kohler, WI (June 2017)
- *How the DOL Fiduciary Rule Applies to TPAs,* NIPA Annual Forum & Expo, Las Vegas, NV (May 2017)
- Strategies for Handling DOL/IRS Investigations, Cambridge Retirement Plan Summit, Louisville, KY (May 2017)
- ERISA Litigation, NIPA Annual Forum & Expo, Las Vegas, NV (May 2017)
- You've Been Served! A Review of Recent Plan Sponsor ERISA Litigation, PSCA 70th Annual National Conference, Chicago, IL (May 2017)
- The Optimist ERISA Attorney A Positive Outlook on the Year Ahead, Unified Trust Advisor Symposium, St. Louis, MO (April 2017)
- The Optimist ERISA Attorney A Positive Outlook on the Year Ahead, RADA Summit, Sea Island, GA (April 2017)
- Requirements of Advisor and Financial Institutions in a Post DOL World, FIG Marketing's DOL Discovery Day, Charlotte, NC (December 2016)
- <u>The Final DOL Conflict of Interest Rule</u>, Transamerica TPA Administrators Conference, San Diego, CA (November 2016)
- The New Fiduciary Rule An In-depth Look at how to Move Forward, NAPFA Fall Conference, Washington, DC (October 2016)
- The New Fiduciary Rule An Overview for Fee Only Advisors, NAPFA Fall Conference, Washington, DC (October 2016)
- An Introduction to Travel Hacking, Excel 401(k) Advisor's Conference, Las Vegas, NV (October 2016)

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- Action Plan for New and Impending Fiduciary Standards, Excel 401(k) Advisor's Conference, Las Vegas, NV (October 2016)
- The Crossroads of Generational Preferences, Technology and New Fiduciary Standards, Excel 401(k) Advisor's Conference, Las Vegas, NV (October 2016)
- ERISA Litigation Update, Excel 401(k) Advisor's Conference, Las Vegas, NV (October 2016)
- ERISA Litigation Update, NIPA Annual Forum and Expo, Las Vegas, NV (May 2016)
- *Strategies for Handling a DOL Investigation,* NIPA Annual Forum and Expo, Las Vegas, NV (May 2016)
- You Don't Want to Be A Headline: Keeping Your Plan Sponsor and Clients from Being Sued, Cambridge Retirement Plan Summit, Denver, CO (May 2016)
- Assessing 408(b)(2) Compliance, Excel 401(k) Advisor's Conference, Las Vegas, NV (October 21, 2015)
- ERISA Litigation Update, Excel 401(k) Advisor's Conference, Las Vegas, NV (October 20, 2015)
- Legal Update: DOL Fiduciary Standards for Investment Advisors & Recent Fee Litigation Cases, Southern Employee Benefits Conference, Atlanta, GA (September 29, 2015)
- *Current Trends in ERISA Litigation and Best Practices to Avoid the Courtroom*, ASPPA Jacksonville Chapter, Jacksonville, FL (September 24, 2015)
- The Tibble v. Edison Decision & the Current State of ERISA Litigation, Transamerica Speaker's Bureau (July 28, 2015)
- A Practitioner's Primer on Pension Law, Missouri Association of Fire Protection Districts, Lake of the Ozarks, MO (June 19, 2015)
- ERISA Legal and Regulatory Update, ASPPA Gateway Chapter, St. Louis, MO (June 16, 2015)
- Proposed DOL Fiduciary Regulation: A New Playing Field for Fiduciary Activity, ASPPA Gateway Chapter, St. Louis, MO (June 16, 2015)
- ERISA Legal and Regulatory Update, MassMutual Advisor Symposium, St. Louis, MO (June 10, 2015)
- Best Practices to Avoid Litigation as a TPA, NIPA Annual Forum & Expo, Las Vegas, NV (May 5, 2015)
- Practical Implications of Recent Supreme Court Decisions/ERISA Litigation, NIPA Annual Forum & Expo, Las Vegas, NV (May 5, 2015)
- How to Craft a TPA Service & Fee Agreement, NIPA Annual Forum & Expo, Las Vegas, NV (May 5, 2015)
- ERISA Legal and Regulatory Update, Unified Trust Advisors Symposium, Lexington, KY (April 23, 2015)
- ERISA Litigation and Enforcement: The Role of the Independent Fiduciary and Best Practices for Financial Advisors, fi360 Webinar (April 8, 2015)
- ERISA Legal and Regulatory Update, RADA Annual Meeting, Sea Island, GA (March 31, 2015)
- *ERISA Litigation Update*, Center for Due Diligence Conference 2014, San Antonio, TX (October 16, 2014)
- Outsourced 3(16) Fiduciary Services: Marketing Con Or Gold Standard, Center for Due Diligence Conference 2014, San Antonio, TX (October 15, 2014)
- Form 5500 Vendor Comparison: Side-by-Side Technology Analysis, Center for Due Diligence Conference 2014, San Antonio, TX (October 15, 2014)
- Legal Update and Best Practices for Retirement Plans, The Lowenbaum Partnership Managing Your Workforce Seminar, St. Charles, MO (October 7, 2014)
- Top 10 Compliance Checklist for Your Retirement and Health & Welfare Plans, The Lowenbaum Partnership Managing Your Workforce Seminar, O'Fallon, IL (September 23, 2014)
- The 21st Century Fiduciary: The Constantly Changing Landscape and How to Stay Ahead, Employee Benefits Association of St. Louis, St. Louis, MO (September 18, 2014)

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- Top 5 Reasons an Employer Should Care About ERISA Compliance, The Lowenbaum Partnership Webinar (June 26, 2014)
- From the Front Lines of ERISA Litigation, C-Biz & J.P. Morgan Symposium, St. Louis, MO (May 18, 2014)
- Why Employers Both Large and Small Should Care About ERISA, CEBS Charlotte Chapter, Charlotte, NC (November 7, 2013)
- The New Frontier: The Different Flavors of Participant Advice, Center for Due Diligence Conference 2013, San Antonio, TX (October 7, 2013)
- *How To Identify Opportunities By Mining 5500 Data*, Center for Due Diligence Conference 2013, San Antonio, TX (October 8, 2013)
- Form 5500s: What are They Good for... Absolutely Something, Nationwide Insurance, Columbus, OH (May 22, 2013)

PODCASTS

- Episode 4: Make Your Own Luck as a Retirement Plan Professional, The 401(k) Marketing Podcast (January 14, 2021) available at <u>https://getpodcast.com/podcast/the-401-k-marketing-podcast/episode-4-make-your-own-luck-as-a-retirement-plan-professional-with-th_db5d6ae255</u>
- How to Optimize Your Points, Hotel Stays and Improve Your Overall Travel Experience 401(k) Marketing Guest Speaker Series (July 31, 2019) available at https://register.gotowebinar.com/recording/7101868050132471810
- 401(k) Self Directed Brokerage Accounts: Fiduciary Considerations, 401(k) Fridays Podcast with Rick Under (July 1, 2019) available at <u>https://www.401kfridays.com/clark2019</u>
- Avoid These Five Fiduciary Fumbles, 401(k) Fridays Podcast with Rick Under (Aug. 10, 2018) available at https://www.401kfridays.com/clark2018
- *The Demise of the Fiduciary Rule*, The 401(k) Study Group Podcast with Chuck Hammond (2017) *available at* <u>https://soundcloud.com/the-401k-study-group/the-demise-of-the-fiduciary-rule-with-tom-clark</u>
- Is Your Retirement Plan Unattractive to ERISA Plaintiffs Attorneys?, 401(k) Fridays Podcast with Rick Under (Mar. 31, 2017) available at <u>http://401kfridays.libsyn.com/is-your-retirement-plan-unattractive-to-erisa-plaintiffs-attorneys</u>
- *To Go RLA or Not*, The 401(k) Study Group Podcast with Chuck Hammond (2016) *available at* <u>https://soundcloud.com/the-401k-study-group/to-go-ria-or-not-with-tom-clark</u>
- Recent 401(k) Litigation & DOL Activity, 401(k) Fridays Podcast with Rick Unser (Oct. 21, 2016) available at http://401kfridays.libsyn.com/recent-401k-litigation-dol-activity
- The Next Wave of ERISA Litigation, The 401(k) Study Group Podcast with Chuck Hammond (2016) available at https://soundcloud.com/the-401k-study-group/the-next-wave-of-erisa-litigation-withtom-clark-jd-llm

QUOTATIONS

• Quoted regarding expertise in ERISA and benefits in publications such as Associated Press; Reuters; Bloomberg.com; Forbes.com; Pensions & Investments; BNA Pension & Benefits; InvestmentNews.com; Benefitspro.com; RIABiz.com; 401(k) Specialist; PlanSponsor; PlanAdviser;

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Wealthmanagement.com; The 401(k) Wire; Thinkadvisor; National Law Journal; Employee Benefit Adviser; Financial Planning; Pension & Benefits Daily; Investments & Wealth Monitor; Business Wire; St. Louis Post-Dispatch; and BenefitsPro.