



## Sam Schwartz-Fenwick

Partner

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## Biography

### Practices & Sectors

#### Labor & Employment

ERISA & Employee Benefits Litigation

Labor Management Relations

Background Screening Compliance & Litigation

Hiring, Testing & Selection

### Specialty Teams

#### Pharmaceuticals and Life Sciences

Mr. Schwartz-Fenwick is a partner in the Labor and Employment Practice Group of Seyfarth Shaw LLP. He is particularly well-versed in benefits-related litigation under the Employee Retirement Income Security Act (ERISA). Mr. Schwartz-Fenwick defends complex class actions and single-plaintiff lawsuits under ERISA. In the class action realm, he has defended various types of claims, including claims for benefits and claims for breach of fiduciary duty, including 401(k) fee litigation.

In addition to his ERISA litigation practice, Mr. Schwartz-Fenwick has significant experience in general employment matters. He regularly assists in the defense of complex litigation matters brought under the National Labor Relations Act, and represents clients in hearings before the National Labor Relations Board and in grievance arbitrations. Mr. Schwartz-Fenwick represents clients in litigation under Title VII of the Civil Rights Act and the Illinois Human Rights Act. He also provides day-to-day counseling and advice to clients about the various laws affecting the employment relationship.

Mr. Schwartz-Fenwick speaks nationwide and publishes regularly on a variety of employment law and litigation topics, and issues regarding diversity and inclusion in the legal profession. He has also served as a contributor to *Employee Benefits Law* (ABA) and *The Developing Labor Law* (BNA), and developed in conjunction with Equality Illinois a best practices guide for Illinois employers on LGBT inclusion.

Mr. Schwartz-Fenwick leads the firm's LGBT Affinity Group. He is a member of the executive committee of United Pride, the president of the board of Unsilence, a human rights educational organization, and serves on multiple committees at his synagogue.

## Education

- J.D., Northwestern University School of Law (2005)  
*cum laude*
- B.A., Tufts University (2001)  
*summa cum laude*  
Phi Beta Kappa

## Admissions

- Illinois

## Affiliations

- Chicago Bar Association

## Representative Engagements

- *National counsel to large insurer on all ERISA litigation* (Represented large insurance company in all denial of benefits litigation nationwide)
- *Dolins v CNA, et al.*, 16-889 (N.D. Ill.) (Represent plan, employer, third-party administrator in breach of fiduciary duty and prohibited transaction class action in connection with 401(k) plan)
- *Unite Here Health v Greenbrier Hotel, et al.*, 5:2013cv11644 (S.D. W.V.) (Represented welfare plan in breach of fiduciary duty lawsuit)
- *Downes v. Wisconsin Energy Retirement Account Plan, et al.*, 09-cv-637 (E.D. Wis.) (Represented plan and company in ERISA cash balance case)
- *Ruppert v. Alliant Energy Cash Balance Pension Plan*, Case No. 08-cv-127 (W.D. Wis.) (Represented plan in an ERISA cash balance class action)
- *George v. Kraft Foods Global, Inc., et al.*, Case Nos. 07-cv-1713, 08-cv-3799 (N.D. Ill.) (two class actions alleging breaches of fiduciary duty in connection with 401(k) plan)
- *City of Evanston and Teamsters Local 714* (2010, Meyers, Arb.) (upholding discharge of police officer for misconduct).
- *Wells v Brachs* (N.D. Ill.) (Represented company in single plaintiff breach of contract case relating to denial of benefits brought under ERISA § 502(a)(1)(B))

## Presentations

- INTERSECTION BETWEEN RELIGIOUS AND MORAL LIBERTY AND BENEFITS, ABA Employee Benefits Committee Midwinter Meeting (February 2018)
- Transgender Issues In Schools: Supporting Students and Avoiding Legal Pitfalls, Lorman Webinar (February 2018)
- Trends in Transgender Law In Employee Benefits ABA Joint Committee on Employee Benefits Health and Welfare Benefit Plans National Institute (September 2017)
- HEALTH CARE PLAN UPDATE, ABA Employee Benefits Committee Midwinter Meeting (February 2017)
- LGBT Rights: Gender Identity and Sexual Orientation in the Workplace, Illinois Public Sector Labor Relations Law Conference (December 2016)
- Navigating the Gender Identity Gap in Schools: Untangling the Legal Web, ABA Section of State and Local Government Law (September 2016)
- Transgender Law In Employment And Employee Benefits, National LGBT Bar Annual Conference (August 2016)
- Transgender Issues in the Workplace, Business Insurance, (April 2016)
- Transgender Benefits – What Needs to Be Provided and Current Developments, ABA Joint Committee on Employee Benefits, Government Invitational Conference (March 2016)

- ERISA LITIGATION REVIEW: A closer look at notable decisions from the past year, Chicago Bar Association (March 2016).
- ACA's Expansive Nondiscrimination Provision And Transgender Benefits, ABA Employee Benefits Committee Midwinter Meeting (February 2016)
- Evolving Landscape of Federal LGBT Rights, ABA 2016 Midyear Meeting with the Section of State and Local Government Law (February 2016)
- Litigation Issues in Employee Benefits for LGBT Employees, ERISA Litigation National Institute (May 2015)
- ERISA LITIGATION REVIEW A closer look at notable decisions from the past year, Chicago Bar Association (March 2015).
- Post-Windsor: Shoes Are Dropping All Over the Place, ABA Section of Labor and Employment Law Employee Benefits Committee 2015 Midwinter Meeting
- What's Next After Windsor?, ABA Section of Labor and Employment Law National Meeting (November 2014)
- Employment Discrimination, Section 510, and Affordable Care Act Issues, 28th Annual National Institute on ERISA Basics (October 2014)
- The Supreme Court's Labor & Employment Decisions 2013 to 2014 Term, Illinois Chamber of Commerce (August 2014)
- Aftermath of the Supreme Court's DOMA Decision, ABA Section of Taxation Joint Meeting (September 2013)
- Employee Benefits: Same-Sex Marriage and Domestic Partners, ABA Section of Labor and Employment Law Employee Benefits Committee 2013 Midwinter Meeting

## Publications

- Co-Author, "Court Vacates New Rules on Association Health Plans," *Health Care Reform Management Alert* (Issue 119), Seyfarth Shaw LLP (March 29, 2019)
- Co-Author, "U.S. Supreme Court Hears Oral Argument in Key Case on LGBT Rights and Religious Liberty," *Management Alert*, Seyfarth Shaw LLP (December 7, 2017)
- "The Future of the Federal Transgender Benefit Protections," *ABA Journal* (Summer 2017)
- Co-Author, "Texas Supreme Court Disputes Reach of Obergefell in Employee Benefits Case," *Employment Law Lookout Blog*, Seyfarth Shaw LLP (July 18, 2017)
- Co-Author, "Texas Supreme Court Disputes Reach of Obergefell in Employee Benefits Case," *ERISA & Employee Benefits Litigation Blog*, Seyfarth Shaw LLP (July 7, 2017)
- Co-Author, "Seventh Circuit Affirms Likelihood of Success that School's Bathroom Policy Violates Title IX and Equal Protection Clause," *Management Alert*, Seyfarth Shaw LLP (June 13, 2017)
- Co-Author, "Seventh Circuit Finds Discrimination on the Basis of Sexual Orientation Prohibited by the Civil Rights Act," *Management Alert*, Seyfarth Shaw LLP (April 5, 2017)
- Co-Author, "Supreme Court Remands Transgender Rights Case to Court of Appeals After Trump Administration Withdraws Obama Era Guidance," *Management Alert*, Seyfarth Shaw LLP (March 9, 2017)
- Co-Author, "Trump Administration Withdraws Prior Department of Education

Interpretations Regarding Title IX Protections Afforded to Transgender Students,” *Management Alert*, Seyfarth Shaw LLP (February 24, 2017)

- Co-Author, “Courts Say Title VII Forbids Employment Discrimination Based on Sexual Orientation and Gender Identity,” *Employment Law Lookout Blog*, Seyfarth Shaw LLP (December 6, 2016)
- Co-Author, “Court Smacks Down Plaintiff’s “[But Mom... ] Everyone Else Is Doing It” Public Policy Argument To Void Illegal Exclusions Provisions,” *ERISA & Employee Benefits Litigation Blog*, Seyfarth Shaw LLP (November 22, 2016)
- Co-Author, “Supreme Court to Rule on Case Addressing Bathroom Access Based on Gender Identity,” *Management Alert*, Seyfarth Shaw LLP (November 21, 2016)
- Co-Author, “Seventh Circuit to Re-Hear Case Determining Whether Sexual Orientation Discrimination is Covered By Title VII,” *Employment Law Lookout Blog*, Seyfarth Shaw LLP (October 27, 2016)
- Co-Author, “Watching SCOTUS – ERISA Church-Plan Exemption Revisited,” *ERISA & Employee Benefits Litigation Blog*, Seyfarth Shaw LLP (October 11, 2016)
- Co-Author, “Texas District Court Enjoins Federal Gender Identity Protection Of Students,” *Employment Law Lookout Blog*, Seyfarth Shaw LLP (August 25, 2016)
- Co-Author, “Seventh Circuit Holds That Title VII Does Not Cover Sexual Orientation,” *Employment Law Lookout Blog*, Seyfarth Shaw LLP (August 11, 2016)
- Co-Author, “Don’t Be a Menace to South Central (Houston Action Council) When Your ERISA Claim Is No Good,” *ERISA & Employee Benefits Litigation Blog*, Seyfarth Shaw LLP (June 1, 2016)
- Co-Author, “Suing Not Too Wisely,” *ERISA & Employee Benefits Litigation Blog*, Seyfarth Shaw LLP (May 18, 2016)
- Co-Author, “Fourth Circuit Holds that “Sex” Under Title IX Incorporates Gender Identity,” *Employment Law Lookout Blog*, Seyfarth Shaw LLP (May 4, 2016)
- Co-Author, “Fourth Circuit Holds that Title IX Protects Transgender Student’s Right to Use Men’s Restroom Consistent With the Student’s Gender Identity,” *Management Alert*, Seyfarth Shaw LLP (April 25, 2016)
- Co-Author, “Bathroom Bills: What Employers Need To Know,” *Employment Law Lookout Blog*, Seyfarth Shaw LLP (April 12, 2016)
- Co-Author, “Transgender Bathroom Access,” *Employment Law Lookout Blog*, Seyfarth Shaw LLP (March 8, 2016)
- Co-Author, “The EEOC Files Historic Lawsuits Testing Theory That Title VII Covers Discrimination Based On Sexual Orientation,” *Employment Law Lookout Blog*, Seyfarth Shaw LLP (March 3, 2016)
- Co-Author, “Supreme Court Concludes That ERISA Preempts State Reporting Requirements,” *ERISA & Employee Benefits Litigation Blog*, Seyfarth Shaw LLP (March 2, 2016)
- “Transgender Issues in the Workplace,” *Association of Corporate Council* (Winter 2016)
- Co-Author, “When Will We Know If Title VII Applies To Cases of Sexual Orientation Discrimination?,” *Employment Law Lookout Blog*, Seyfarth Shaw LLP (February 4, 2016)
- Co-Author, “The Magic 8 Ball says –The Supreme Court’s Montanile Decision and The Seemingly Random Evolution of Supreme Court ERISA Remedies Jurisprudence,” *ERISA*

- & Employee Benefits Litigation Blog*, Seyfarth Shaw LLP (January 20, 2016)
- “College Basketball Players Can Bring Sexual Orientation Claim Under Federal Law, And Why Employers Should Pay Attention,” *Employment Law Lookout Blog*, Seyfarth Shaw LLP (December 22, 2015)
  - Co-Author, “Complicit in Sin: the Burden of the Opt-Out Form,” *ERISA & Employee Benefits Litigation Blog*, Seyfarth Shaw LLP (November 19, 2015)
  - “Seventh Circuit Asked To Recognize That Protections Of Title VII Cover Gays and Lesbians,” *Employment Law Lookout Blog*, Seyfarth Shaw LLP (October 13, 2015)
  - Co-Author, “New HHS Rules Will Provide Greater Protections Against Gender Identity Discrimination,” *ERISA & Employee Benefits Litigation Blog*, Seyfarth Shaw LLP (September 15, 2015)
  - Co-Author, “Rochow and the Future of Equitable Remedies Under ERISA,” *Bloomberg BNA Tax Management Memorandum* (August 24, 2015)
  - Co-Author, “EEOC Rules That Existing Federal Law Prohibits Employment Discrimination Based On Sexual Orientation” *Employment Law Lookout Blog*, Seyfarth Shaw LLP (July 23, 2015)
  - Co-Author, “The EEOC Rules That Existing Federal Law Prohibits Employment Discrimination Based On Sexual Orientation,” *Workplace Class Action Blog*, Seyfarth Shaw LLP (July 20, 2015)
  - Co-Author, “SEC Interpretive Release on the Terms ‘Spouse’ and ‘Marriage,’” *Employment Law Lookout Blog*, Seyfarth Shaw LLP (July 9, 2015)
  - Co-Author, “Same-Sex Marriage Bans As Sex Discrimination: The Potential Impact On Plan Sponsors And Employers,” *Employment Law Lookout Blog* (May 12, 2015)
  - Co-Author, “Same-Sex Marriage Bans As Sex Discrimination: The potential impact on plan sponsors,” *ERISA & Employee Benefits Litigation Blog*, Seyfarth Shaw LLP (May 6, 2015)
  - Co-Author, “The Supreme Court Weighs The Constitutionality Of Restricting Marriage To Opposite Sex Couples, And The Impact Their Decision May Have For Employers,” *Employment Law Lookout Blog*, Seyfarth Shaw LLP (April 28, 2015)
  - Co-Author, “The EEOC Targets Benefit Plans,” *ERISA & Employee Benefits Litigation Blog*, Seyfarth Shaw LLP (April 2, 2015)
  - Co-Author, “Supreme Court Vacates Seventh Circuit Ruling on Contraceptives,” *ERISA & Employee Benefits Litigation Blog*, Seyfarth Shaw LLP (March 11, 2015)
  - Co-Author, “If The Supreme Court Legalizes Same-Sex Marriage, What Next?,” *ERISA & Employee Benefits Litigation Blog*, Seyfarth Shaw LLP (January 20, 2015)
  - Contributing Editor for the ABA's *The Developing Labor Law book*
  - Contributing Editor for the ABA's *Employee Benefits Law book*
  - Co-Author, “U.S. v. Windsor: Present and Future Employment and Employee Benefit Implications,” *California Business Law Practitioner*, Vol. 29, No. 3 (Regents of the University Of California, Summer 2014)
  - Co-Author, “401(k) Fee Litigation,” *Practical Law Company*

