

MVP: Mayer Brown's Brantley Webb

By Patrick Hoff

Law360 (November 19, 2024, 1:38 PM EST) -- Brantley Webb of Mayer Brown LLP's U.S. Supreme Court and appellate practice group guided Yale University and Wood Group PLC to trial victories in Employee Retirement Income Security Act lawsuits and convinced the D.C. Circuit to uphold the dismissal of a challenge to Georgetown University's retirement plans, earning her a spot as one of the 2024 Law360 Benefits MVPs.

Why she's a benefits attorney:

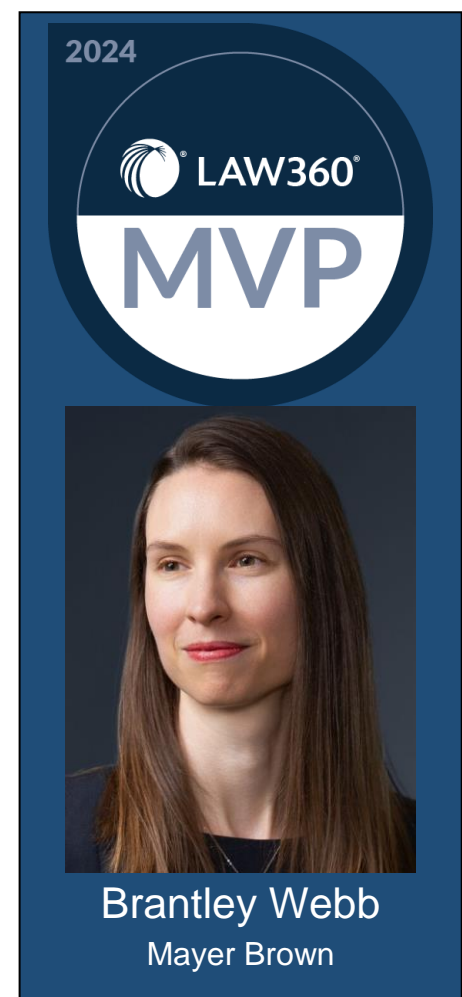
Webb began working on ERISA excessive fee litigation as an associate representing Lockheed Martin and has since remained at the forefront of several high-profile ERISA disputes. According to Webb, her interest in the subject matter was fostered by Mayer Brown colleagues such as Nancy Ross and Brian Netter, who left the firm to join the U.S. Department of Justice in 2021, and she loves working with clients day to day.

Webb said excessive fee litigation is currently at an interesting juncture, with hundreds of cases challenging the recordkeeping fees and investment options of employer-sponsored 401(k) plans being filed across the country. Webb said the suits were initially aimed at larger companies, but nonprofits and smaller companies have been increasingly targeted, which makes it "sort of high-risk to be a fiduciary to a retirement plan."

"I don't think you'll find a retirement plan that doesn't know [or] the fiduciaries don't know about this dynamic, this wave of litigation," Webb said. "And for my clients, when we get new cases, we often find that the plan fiduciaries are going above and beyond. They really care, they want to get it right."

Webb said the influx of litigation in recent years makes her practice area "a high-stress, very high-stakes field," and one that many recent law school graduates shy away from. For Webb, however, that makes the work more interesting.

"It's [a field] that I feel passionate about, defending the employers and fiduciaries that I do," Webb said. "And it's not an easy fight, it's complicated, and it's high stakes. I enjoy that."



Her biggest accomplishment:

Webb said that while she was happy when a Wisconsin federal judge in January dismissed a proposed class action accusing Nestle USA Inc. of charging excessive fees in its 401(k) plan, and the D.C. Circuit in April upheld the dismissal of a challenge to Georgetown's 403(b) plan, two trial victories stand out from the past year: In June 2023, a jury found that Yale University's failure to monitor recordkeeping fees hadn't damaged a class of nearly 20,000 retirement plan participants, and in February 2024, a California federal judge concluded after a nine-day bench trial that Wood Group PLC had properly selected and monitored its 401(k) plan's investment options.

Webb said excessive fee litigation is typically settled if it passes the motion-to-dismiss stage, and rarely gets to trial, so she and her team had to work hard to develop the best way to explain ERISA, investment strategies and how recordkeeping fees are structured to jurors.

"Particularly for the jury trial, making that understandable and really just telling our story in a way where the jury wasn't confused, or the judge, for that matter," Webb said.

Webb said that at the end of the trials, though, she was reminded of something a mentor told her: Usually, the truth comes out in the end.

"That's how we felt, that we had been fighting the plaintiffs and their counsel for a long time on these claims. We finally got the opportunity to tell our full story on the merits, and in both cases, we won," Webb said. "That was really a validation of what we had believed and what we had been fighting for for so long."

Her biggest challenge:

Webb said her biggest challenge in the past year hasn't been one case in particular but rather the hundreds of excessive fee cases filed in recent years. According to Webb, new clients often feel they've done the best they could and question why they've been targeted with a lawsuit.

"Those conversations are very hard, and they're getting harder, honestly, because often the answer is, 'Well, you're a big company,'" Webb said. "And I think walking clients through the current environment is actually challenging and stressful for them."

Webb said she usually tells clients they're facing years of litigation and explains the types of challenges that plaintiffs will likely raise, often involving a particular investment fund that underperformed other options on the market.

Webb said that, in her view, comparing investment fund returns in hindsight is "usually not a legitimate challenge," which she explains to clients on day one.

"But that's often the type of thing in these complaints," Webb said. "So we work to help the client understand that, and ultimately, we work to help the court and the fact-finder understand those types of claims."

What motivates her:

Webb said the plan fiduciaries and staff that she gets to work with inspire and motivate her to keep going, particularly those involved in cases that proceed to discovery and ultimately go to trial.

She pointed to the back-to-back trial victories for Yale and Wood Group, respectively, and the plan fiduciaries she worked with as witnesses throughout the case. Webb said many plan fiduciaries, and particularly the ones she saw in these cases, are "just incredibly talented" and gave a lot of their time to the trials.

"Despite the high-risk environment, it is still often just voluntarily serving on a committee and trying to get everything right and do the best for plan participants day in and day out," Webb said. "I found working closely with those fiduciaries to be thoroughly satisfying."

She added that plan fiduciaries involved in the Yale trial were in the courtroom when the jury verdict was read, making it a very powerful moment and experience for her.

"Being in that room, listening to the jury foreperson read the verdict, was the proudest moment I've had, possibly in my career, not just in the last year," Webb said. "That was such a challenge to translate all of those concepts for the jury."

Her advice for junior attorneys:

Webb said her father, an 82-year-old math professor who's still working and remains passionate about his profession, has always told her to "stay in the game," a piece of advice she didn't understand when she was younger but that she's grown to appreciate as she progresses in her career.

"I think this year has been a good example, where I've had to juggle a lot of cases, I've had to take care of a toddler, and various other obligations in and out of work," Webb said. "I think as you get more senior in your career, it becomes harder and harder just to stay in the game. You get so many other competing obligations, the competition gets fiercer, the stakes get higher."

Webb said it can become harder and harder to keep meeting the same expectations and get the work done every day, but her father's advice has helped her.

"That is the key: Just coming in every day and doing what needs to be done, and being patient and never dropping your standards," she said.

--As told to Patrick Hoff. Editing by Dave Trumbore.

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