

# ERISA & Group Litigation with DO&CB

d'Arcambal Ousley & Cuyler Burk, LLP ("DO&CB") specializes in ERISA and Group Litigation representing administrators, insurers, and plans throughout New York, New Jersey, and Pennsylvania.

Here is who we represent and what we do...

- We obtain summary judgment on behalf of insurers in suits to recover life, health, and disability benefits under ERISA plans.
- We successfully resolve ERISA-governed long-term disability benefits action in a cost-effective manner, frequently through mediation.
- We partner with corporate legal departments to develop program-wide litigation readiness to ensure that the discovery process is smooth and inexpensive, and to find ways to use discovery to the company's advantage.
- We represent life insurers nationwide with respect to interpleaders of death benefits from large group ERISA plans.

...and here are some successful motions we've made:

- New Jersey District Court dismissed plaintiff's denial of coverage claim, holding that a company's denial of accidental death and dismemberment benefits, was not arbitrary and capricious under the sickness exclusion.
- Southern District of New York dismissed a provider's claim for facility fee benefits due to failure to exhaust administrative remedies. District Court rejected provider's motion to dismiss ERISA causes of action for unjust enrichment and equitable restitution with respect to plan administrator's counterclaim to recover facility fees erroneously paid.
- New Jersey District Court granted summary judgment on a disputed amount of AD&D benefits.
- Northern District of New York dismissed plaintiff's claim for damages under ERISA 510. District Court found that the plaintiff authorized the company to disclose information to relevant parties such as her employer. Further, District Court rejected the plaintiff's HIPAA claim—primarily because she lacked standing to bring a private right of action against the company.
- New Jersey District Court granted summary judgment holding that administrator was not estopped from asserting that the ERISA benefit plan participant's son was ineligible for coverage, and that the participant was not entitled to convert dependent coverage to an individual policy retroactively.
- Southern District of New York denied plaintiffs' motion to remand because the provider had claimed in its State Court complaint that the patient had assigned its claims to provider and rejected the provider's new claim that there was no assignment; the court held that ERISA pre-empted all of the state statutory and common law claims relating to claims under ERISA plans.



d'Arcambal Ousley & Cuyler Burk LLP  
Attorneys at Law

[www.darcambal.com](http://www.darcambal.com)

## New York City Office

40 Fulton Street, Suite 1501, New York, NY 10038  
Phone: 212-971-3175 • Fax: 212-971-3176

## New Jersey Office

Parsippany Corporate Center, Four Century Drive, Parsippany, NJ 07054  
Phone 973-734-3200 • Fax 973-734-3201

## Philadelphia Office

1500 Market Street, 12th Floor, East Tower, Philadelphia, PA 19102

# About d'Arcambal, Ousley & Cuyler Burk LLP

For over twenty years, d'Arcambal Ousley & Cuyler Burk, LLP (DO&CB) has provided exceptional legal counsel to Fortune 500 companies and large financial institutions. For each client engagement, DO&CB emphasizes cost-effective approaches, early case assessments, and strategic planning and expertise. Our lawyers previously practiced in corporate legal departments and large law firms, so we understand the voice of the customer and its business and legal objectives. DO&CB is women-owned with offices in New York City, New Jersey and Philadelphia.

## Featured Partners Handling Erisa & Group Litigation

### Michelle J. d'Arcambal (Partner)

Ms. d'Arcambal has handled many and varied matters relating to large group life, health, and disability litigation, including ERISA, since 1994. As an in-house litigator at MetLife, Ms. d'Arcambal managed sales practices class actions, managed outside counsel with respect to ERISA matters and responded to pre-litigation inquiries regarding individual products and ERISA plan.



### Jodie L. Ousley (Partner)

Ms. Ousley has handled many and varied matters relating to life, health, and disability litigation, including ERISA. She has defended and resolved, through mediation or otherwise, long-term group (including ERISA) disability and life benefits matters, including interpleaders.



### Jaclyn DiLascio Malyk (Partner)

Ms. Malyk has been extensively involved in litigating ERISA and non-ERISA disability and accidental death benefits claims. Ms. Malyk gained invaluable experience during her tenure in the in-house law department of Prudential Group Insurance. She continues to provide transactional advice on state insurance and annuities regulations in connection with the development of new products and the operation of existing products, and has been instrumental in fostering program-wide proactive approaches to discovery to increase success and cost-effectiveness.



### Nada Maalouf Peters (Partner)

Ms. Peters litigates in state and federal courts throughout New Jersey, New York and Pennsylvania, as well as in other jurisdictions across the country. In ERISA and non-ERISA benefits matters, Ms. Peters has achieved favorable rulings at the trial and appellate levels as well as successfully resolved matters through early negotiation and mediation. Ms. Peters also counsels clients on handling and responding to conflict discovery requests.

