



Kenton J. Coppage

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Kent's practice is concentrated in life, health and disability insurance litigation and employee benefits litigation under the Employee Retirement Income Security Act of 1974 (ERISA). His ERISA experience includes the defense of employee benefits determinations by self-funded and insured plans, breach of fiduciary duty claims and statutory penalty claims at both the trial court and appellate court levels.

Representative Matters

- *Pierce v. Cigna Health and Life Ins. Co.*, 2019 WL 1493705 (N.D. Ga. Feb. 21, 2019). Defended insurer in a claim for medical expense benefits under an ERISA plan.
- *Smith v. Cox Enterprises, Inc.*, 2015 WL 331116 (N.D. Ga. Jan. 27, 2015). Defended the administrator of a self-funded ERISA plan in an action for disability benefits.
- *Roberson v. McIntosh County School District*, 326 Ga. App. 874, 755 S.E. 2d 304 (2014). Defended an insurer in a claim for life insurance benefits.
- *Dorsey v. Aetna Life Insurance Co.*, 2013 WL 1288165 (E.D. Va. Mar. 26, 2013). Defended a third-party administrator in a claim for disability benefits under a self-funded ERISA plan.
- *Medical Ctr. v. Humana Military Healthcare Services*, 2012 WL 3295640 (M.D. Ga. Aug. 10, 2012). Defended a TRICARE managed care support contractor in an action to recover recouped over-payments.
- *Muhammad v. Humanadental Ins. Co.*, 2010 WL 457498 (N.D. Ga. Feb. 10, 2010). Defended an insurer in a claim for dental benefits under ERISA plan.
- *Le Roux v. Woodgrain Millwork, Inc.*, 2008 WL 1836672 (D. Idaho Apr. 22, 2008). Defended a self-funded health benefits plan in an action to recover ERISA benefits.
- *Mitchell v. Globe Life and Accident Ins. Co.*, 548 F. Supp. 2d 1385 (N.D. Ga. 2007). Defended a life insurer in an action to recover accidental death benefits.

Before Fox Rothschild

Kent was a member of the Southeast regional firm Smith Moore Leatherwood LLP, which combined with Fox Rothschild in 2018.

Beyond Fox Rothschild



In addition to his active representation of clients, Kent speaks and publishes articles on ERISA and insurance topics. He is past chair of the Life Insurance Law Committee of the ABA's Tort Trial and Insurance Practice Section and is active in the Defense Research Institute and International Claim Association.

Accomplishments

- Fellow, American Bar Foundation

Honors & Awards

- Rated AV Preeminent™ by Martindale-Hubbell®

Practice Areas

- Litigation
- Employee Benefits & Compensation
- Life, Health, Disability & ERISA Litigation
- Appellate Practice
- Insurance

Bar Admissions

- Georgia

Court Admissions

- U.S. Court of Appeals, Eleventh Circuit
- U.S. District Court, Northern District of Georgia
- U.S. District Court, Middle District of Georgia
- U.S. District Court, Southern District of Georgia
- U.S. District Court, Eastern District of Tennessee

Education

- University of Georgia (B.A., *summa cum laude*, 1987)
- University of Georgia School of Law (J.D., *cum laude*, 1990)

Memberships

- American Bar Association (Tort Trial and Insurance Practice Section)
 - Employee Benefits Committee
 - Health and Disability Insurance Law Committee
 - Life Insurance Law Committee, Past Chair
- Georgia State Bar
 - Tort and Insurance Law Section
 - Appellate Practice Section
- Federal Bar Association
- Defense Research Institute



- Appellate Advocacy Committee
- Life, Health and Disability Committee
- Association of Life Insurance Counsel
- International Claim Association

Life, Health, Disability and ERISA

Kent co-leads Fox Rothschild's Life, Health, Disability & ERISA Team, which has deep experience representing insurance companies, ERISA plan sponsors and third-party administrators in cases in federal and state courts. Our cross-cutting representations span a number of key financial, life sciences, transportation, manufacturing, non-profit and education industries. And we are known as skilled advisers and litigators with decades of experience assisting clients with claims to recover benefits and for breach of fiduciary duties under ERISA, class actions, discriminatory underwriting claims, allegations of agent misconduct, and breach of contract claims to recover life, accidental death, disability and health insurance benefits.

Fox attorneys are leaders in organizations such as the Life, Health and Disability Committee of the Defense Research Institute and the Life Insurance Law Committee, Health and Disability Law Committee, and Employee Benefits Committee of the Tort Trial & Insurance Practice Section of the American Bar Association. They speak frequently at national seminars on life, health, disability and ERISA issues.

Team Experience

- ***Pierce v. Cigna Health and Life Ins. Co.***
(Northern District of Georgia) (whether denial of ERISA claim for experimental treatment was arbitrary or capricious)
- ***Joseph v. Northwestern Mutual Life Insurance Co.***
(Middle District of Georgia) (whether insured under individual disability income insurance policy failed to comply with policy's notice of claim provision)
- ***Royal v. New York Life Ins. Co.***
(Southern District of Georgia) (whether insured under individual disability income insurance policy failed to comply policy's 90-day proof of loss provision and three-year legal actions provision)
- ***Smith v. Cox Enter., Inc.***
(Northern District of Georgia) (whether administrator of self-funded ERISA plan abused its discretion in denying claim for disability benefits)
- ***Dorsey v. Aetna Life Insurance Co.***
(Eastern District of Virginia) (whether self-funded plan was top hat plan exempt from disclosure obligations of section 104(b)(4) of ERISA and whether third-party administrator abused its discretion in denying claim for disability benefits)
- ***Medical Center, Inc. v. Humana Military Healthcare Services***



(Middle District of Georgia) (whether TRICARE managed care support contractor properly offset amount of overpayments for medical claims against future claim payments owed to hospital)

• ***Burnett v. Combined Insurance Company of America***

(Middle District of Georgia) (whether second disabling injury sustained during period of continuous total disability entitled insured to a new maximum benefit period)

• ***Muhammad v. Humanadental Insurance Co.***

(Northern District of Georgia) (whether claim for breach of dental insurance contract was preempted by ERISA)

• ***Provident Life and Accident Insurance Co. v. Futch***

(Southern District of Georgia) (whether surgeon was eligible to recover lifetime disability benefits based on claim that bilateral osteoarthritis of the hips was due to accidental bodily injuries, rather than due to sickness)

• ***White v. New York Life Insurance Co.***

(Southern District of Georgia) (whether lapse of life insurance policy for failure to pay premiums was excused by insured's alleged mental incapacity)

• ***Le Roux v. Woodgrain Millwork, Inc.***

(District of Idaho) (whether claims against self-funded health benefits ERISA plan for equitable estoppel, breach of fiduciary duty, and class action were subject to dismissal under Fed. R. Civ. P. 12(b)(6))

• ***Mitchell v. Globe Life and Accident Insurance Co.***

(Northern District of Georgia) (whether beneficiary under accidental death insurance policy timely complied with notice of claim and proof of loss provisions of policy and established accidental death within meaning of policy)

• ***Cowart v. Metropolitan Life Insurance Co.***

(Middle District of Georgia), *affirmed* (11th Cir. 2006) (whether individual disability policy was part of ERISA plan or came within Department of Labor "safe harbor," in view of evidence that employer paid premiums)

• ***Karp v. Guardian Life Insurance Company of America***

(Southern District of Georgia), *affirmed* (11th Circuit) (whether termination of disability benefits under ERISA plan or award of Social Security disability benefits was a "qualifying event" requiring former employer to offer continuation of health insurance under COBRA)

• ***Moorman v. UnumProvident Corp.***

(11th Circuit) (whether disability insurance plan was "established and maintained" by employer and therefore governed by ERISA, and whether plan satisfied safe harbor exemption from ERISA based on actions of employer)



- ***Perry v. Unum Life Insurance Company of America***

(Northern District of Georgia) (whether insured could pierce corporate veil or establish tortious interference claim against insurer's parent company based on insurer's alleged breach of contract resulting from denial of benefits)

- ***Powers v. Paul Revere Life Insurance Co.***

(Northern District of Georgia), *affirmed* (11th Circuit) (whether letter to insured from insurance agent amended disability policy to add cost of living benefits)

- ***Kocer v. New York Life Insurance Co.***

(Northern District of Georgia) (whether disability benefits were payable to physician whose license to practice medicine was revoked, thereby resulting in "legal disability" before the onset of factual disability)

- ***Dixon v. Life Insurance Company of North America***

(11th Circuit) (whether death resulted "directly" from accident and "no other causes" where insured's preexisting cardiac condition substantially contributed to automobile accident resulting in death)

- ***Transamerica Occidental Life Insurance Co. v. Miles***

(Northern District of Georgia), *affirmed* (11th Circuit) (whether term life insurance policy went into effect where application required owner's personal receipt of policy while in good health and applicant's health changed after policy was received by agent, but before policy was delivered to applicant)

- ***Worsham v. Provident Companies, Inc.***

(Northern District of Georgia) (whether merger clause of disability policy barred plaintiff's fraud and RICO claims based on representations allegedly made by agent)

- ***Yessick v. Midland Life Insurance Co.***

(Northern District of Georgia) (whether proof of customary, computerized procedures was sufficient to establish that premium invoice and lapse notice were mailed to insured)

- ***McAfee v. Transamerica Occidental Life Insurance Co.***

(Northern District of Georgia), *affirmed* (11th Circuit), *cert. denied*, 534 U.S. 994 (whether insured's death in shootout with police was covered under accidental death insurance policy)

- ***Suarez v. Massachusetts Mutual Life Insurance Co.***

(Northern District of Georgia), *affirmed* (11th Circuit) (whether loss of medical license was legal disability, precluding recovery of disability benefits based on subsequent factual disability)

- ***Adair v. Boston Mutual Life Insurance Co.***

(Middle District of Georgia) (whether insured's death from apparent medication overdose was by accidental means)



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- ***Cosby v. Transamerica Occidental Life Insurance Co.***

(Northern District of Georgia), *affirmed* (11th Circuit) (whether insured's breach of common law duty to advise insurer of change in health warranted rescission of life insurance policy)