

MVP: Covington's Robert Newman

By Patrick Hoff

Law360 (November 22, 2024, 12:32 PM EST) -- Robert Newman of Covington & Burling LLP's employee benefits and executive compensation practice group convinced the Second Circuit to affirm an arbitral award in favor of a New York nurses' pension plan and represented Verizon in a \$5.9 billion transfer of pension plan liabilities, earning him a spot as one of the 2024 Law360 Benefits MVPs.

His biggest accomplishment:

Newman said it was difficult to pin down a single accomplishment from the past year, noting three matters that were particularly significant to him.

The first, he said, was helping IBM reopen its defined benefit pension plan, replacing its 401(k) match and nonelective contributions with credits to a cash balance formula in the pension plan. Newman said that over his career, he's watched many companies freeze or shut down their pension plans and move to the 401(k) model to provide retirement benefits — something IBM did in 2008 — so it was unusual for a large employer to make the reverse move.

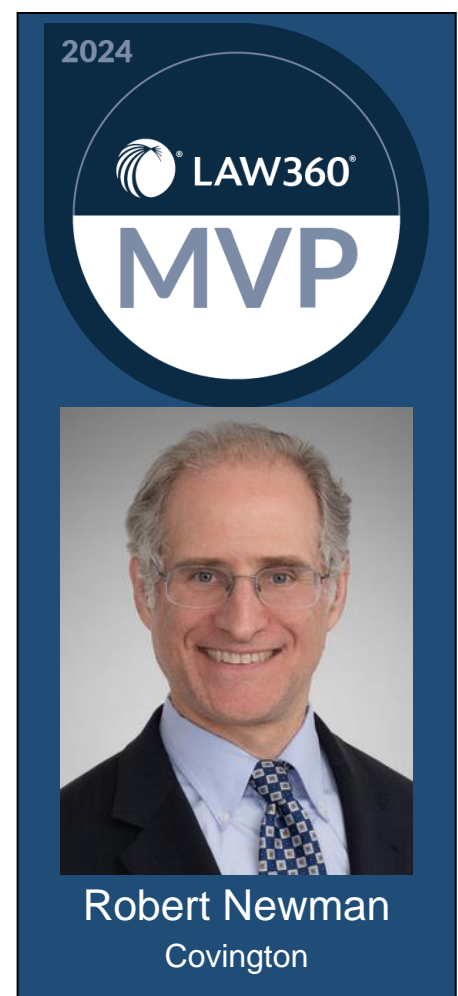
"It's a very complicated project, and it has ... a very sophisticated client who wanted to work very hard to get the right answer, and it affects real people," Newman said. "It's just part of what's great about being an ERISA lawyer."

Newman also led a team of Covington attorneys who represented Verizon in its \$5.9 billion pension risk transfer, moving retirement benefit obligations for 56,000 retirees and their beneficiaries from Verizon's pension plan to Prudential and Reinsurance Group of America.

According to Newman, these types of transactions are complicated and require knowledge of the industry and common practice.

"This isn't something you can look up in a regulation book or read a case and understand what are the typical terms, what can you ask for from insurance companies," he said.

In May, the Second Circuit largely upheld a New York federal judge's decision backing the approval of an



arbitral award favoring the New York State Nurses Association Pension Plan. The appeals judges agreed that White Oak Global Advisors LLC had to return "day 1" fees totaling nearly \$2 million and pay tens of millions of dollars in prejudgment interest.

Newman noted that right after the district court upheld the arbitral award, in March 2022, the U.S. Supreme Court ruled that federal courts generally can't hear claims to confirm arbitration because the underlying law was federal law.

"So, then we had to litigate whether or not we could even be in court," Newman said. "And this was a case of first impression, and it went up to the Second Circuit to figure out, what did the Supreme Court mean?"

Ultimately, the Second Circuit ruled the Employee Retirement Income Security Act falls into an exception to what the justices said in their 2022 decision in *Badgerow v. Walters*.

"That's one of the most wonderful parts of my job, that I get to work on kind of the cutting edge on some of the most complicated matters involving ERISA," Newman said.

Why he's a benefits attorney:

Newman didn't go to law school thinking he would become a benefits attorney or specialize in ERISA, but after exposure to the federal benefits statute, he realized it was "tremendously complex" and figured he wouldn't get bored.

"And having done this more than 25 years now, I'm not bored," Newman said. "I still feel like I learn every day."

He added that benefits is a challenging and highly regulated practice, but is also a broad area. Newman primarily does advisory work, but noted there's also ERISA litigation, corporate transactions and policy work.

"And combine that with the human element — you're talking about employees, you're talking about actual people," Newman said. "Everybody is either an employee ... or employs people. It crosses all industries, it crosses all types of businesses."

What motivates him:

Newman said the complexity of the subject matter he deals with is a major motivator for him, as well as the clients he gets to work with, who he said are "very bright and care a lot about what they do and getting to the right answer."

"Our clients are often very sophisticated lawyers, often in-house benefits lawyers, so when they come to us, it is often for the most complicated matters," Newman said. "So it makes it fun and interesting, and our clients, generally speaking, when they come to us, they want to get the right answer."

Newman noted that he's fortunate to work with collaborative colleagues, saying he couldn't do what he does without some help. Newman said many of the projects he takes on are challenging and complex, so it's helpful to have a supportive team of co-workers to back him up.

"It's very helpful to formally work with colleagues, as well as just be able to walk down the hall, bounce

ideas off each other, get a gut check, make sure that we're on the right path," Newman said. "It is such a complicated area, you want to make sure you're not missing something."

His advice for junior attorneys:

Newman said it's important for junior attorneys to "dig in" on their work, take ownership of it and to understand the context of their advice and how the client will use it.

He added that taking ownership is first and foremost about doing what is asked of you, but also involves trying to understand what is needed and why it's required.

"Particularly in our area, it's such a rich area of regulation and guidance, and the more time you spend with it, the more you can appreciate the way it works — or doesn't work, in some cases — [and] the interaction between various rules, laws and policies behind it," Newman said.

When Newman was an associate, he had the opportunity to be seconded to a position at IBM when an in-house benefits attorney was out on maternity leave. He said that experience gave him a different perspective on what clients needed from him and how in-house counsel makes his advice operable.

"They have to actually tell people what they can and can't do, or how best to do it in a way that minimizes risk, and understanding what the client needs to do with our advice can help the way it's communicated," Newman said.

--As told to Patrick Hoff. Editing by Drashti Mehta.

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