

WILSON SONSINI

David S. Thomas

PARTNER

Employee Benefits
and Compensation
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FOCUS AREAS

Corporate Governance
Employee Benefits and
Compensation

HIGHLIGHTS

- **Broad Transactional and Non-Transactional Practice**
Dave has been involved in some of the firm's most significant IPOs and M&A deals, advising on compensation and benefits matters. Additionally, Dave advises public and private companies, their management teams and directors, and special committees with respect to tax, securities, administration, and governance issues related to all types of compensation arrangements.
- **A Recognized Practitioner**
Dave has been inducted as a Fellow of the American College of Employee Benefits Counsel and is regularly recognized in *Chambers USA*, where he is described as having "an encyclopedic knowledge of any law affecting executive compensation and an unmatched ability to think outside the box to develop bespoke solutions" and providing "fantastic subject matter expertise and a practical and strong ability to translate complicated matters in an understandable way."
- **Thought Leadership**
An advisory board member of both the Certified Equity Professional Institute (CEPI) and Silicon Valley Directors' Exchange, and a member of the Editorial Advisory Board of *Insights: The Corporate and Securities Advisor*, Dave is regularly asked to speak and publish by leading professional groups.

EXPERIENCE

David Thomas is a partner in Wilson Sonsini Goodrich & Rosati's compensation and benefits practice. For more than 25 years, Dave has provided legal and practical guidance on compensation and benefits issues to companies of all sizes, including their compensation committees, boards of directors, and board special committees.

Dave has been inducted as a Fellow of the American College of Employee Benefits Counsel (a national distinction for employee benefits lawyers who have made demonstrably substantive contributions to the field of employee benefits over their career) and has been recognized in multiple editions of *Chambers USA: America's Leading Lawyers for Business*, in which commentators praised his responsiveness, "unmatched ability to think outside the box to develop bespoke solutions," and "strong ability to translate complicated matters in an understandable way." His philosophy is that each compensation or benefits issue must be viewed through a multifaceted lens that takes into account all key constituents. Wilson Sonsini compensation and benefits lawyers pride themselves on considering the whole picture when giving advice, rather than just answering the question, "What legal action is needed to do X?"

Dave places a high priority on his ability to deliver advice and draft documents in "plain English" so they can be easily digested by: technical tax and securities lawyers (because the advice and documents are technically accurate and complete), in-house lawyers who are not tax or compensation

specialists (because they are very clear), and non-lawyers (HR and compensation professionals and the employees who the documents are intended to motivate).

Dave spends much of his time assisting high-growth companies with compensation and employee benefits issues affecting recruiting and retention, primarily including the design and administration of equity incentive plans and employment agreements. He has substantial experience with public offerings, having represented issuers in 33 successful initial public offerings—which raised an aggregate of more than \$10.1 billion—since 2010 and underwriters in an additional 26 during the same period. Some of the more notable of these IPOs include representation of Palantir in its direct listing and the issuers in IPOs for AppLovin Corporation, Forescout Technologies, BlackLine, GoDaddy, Box, Square, and Twitter.

Dave also has significant experience assisting large and small employers with compensation and benefits issues that arise in mergers and acquisitions, advising on more than 500 transactions. Dave's merger and acquisition practice includes experience in representing both buyers and sellers in large and small transactions, including cross-border, private equity (from both the buy-side and sell-side) and other complex transactions. He has included a focus on the unique issues involved in a private-equity-led purchase, including rollovers of selling shareholder and executive equity and the issues that arise in the spinoff or carve-out of a division of a larger company to a purchaser that has no ongoing operations. This M&A experience gives Dave the ability to identify how potential buyers may view actions contemplated by his clients and focus the discussions to minimize the debate about interpretation at the time of a future deal.

Dave regularly represents non-U.S. buyers and sellers in transactions involving U.S. employees, and U.S. buyers and sellers in transactions involving non-U.S. employees. As Asian, European, and Israeli companies seek to move to or expand their operations in the United States, Dave often counsels these companies regarding the employee and equity compensation aspects of these business changes.

Dave assists the compensation and benefits community proactively by serving as an important source of information on compensation and employee benefits law. Since March 2012, Dave has served as the only attorney focused on U.S. issues on the Advisory Board of the Certified Equity Professional Institute (CEPI, a leading group for certification, research, and continuing education for professionals in the equity compensation industry) and he serves on the advisory board of the Silicon Valley Directors' Exchange. In 2022, Dave was asked to join the editorial advisory board of "Insights: The Corporate and Securities Advisor." He is regularly asked to speak and publish by leading professional groups, including the CEPI, the National Association of Stock Plan Professionals, and the Global Equity Organization.

CREDENTIALS

Education

- J.D., University of Virginia School of Law, 1996
Recipient, Edwin S. Cohen Tax Scholarship
- B.S., Economics and Political Science, James Madison University, 1993
Summa Cum Laude

Associations and Memberships

- Fellow, American College of Employee Benefits Counsel
- Advisory Board Member, [Certified Equity Professional Institute](#)
- Advisory Board Member, Silicon Valley Directors' Exchange
- Member, National Association of Stock Plan Professionals

Honors

- Recognized in the 2015-2018 and 2022-2023 editions of *Chambers USA: America's Leading Lawyers for Business*, in which commentators praised his "fantastic subject matter expertise and practical and strong ability to translate complicated matters in an understandable way" and took note of his "encyclopedic knowledge of any law affecting executive compensation"
- Named in the 2013-2019 editions of *Northern California Super Lawyers*

Admissions

- State Bar of California

INSIGHTS

Select Publications

- Co-author with B. Gantus, "Legal Framework and Considerations for Implementing and Enforcing Clawbacks," *Journal of Pension Benefits*, Autumn 2020
- Co-author, "Clawbacks: Challenges, Pitfalls, and Trends," *The Corporate Governance Advisor*, March/April 2021
- Co-author, "Taking Bold and Thoughtful Compensation Action Under the Watchful Eye of ISS," *The Corporate Governance Advisor*, November/December 2020
- Co-author with J. Aguirre and L. Stimmell, "Pay Ratio Disclosure: How to Tackle the SEC Rule," *Corporate Secretary*, December 29, 2017
- Co-author of executive compensation and welfare benefit plan chapters of prior editions of *Employee Benefits in Mergers and Acquisitions*
- Co-author of "Equity Compensation in Mergers and Acquisitions: Things to Watch Out For," *Journal of Pension Benefits*, Autumn 2009
- Co-author of "The Enron Litigation: Lots of Noise, Only a Little Substance . . . So Far," *Journal of Pension Benefits*, Winter 2004
- Co-author of "Plan Fiduciary Responsibilities: Making Important Decisions After Enron," *Employee Benefit Plan Review*, August 2002

Select Speaking Engagements

- "How to Handle 'Change-of-Control' Pay Disclosure," www.zippypoint.com Video Guide, January 2021
- "How to Handle the 'Director Compensation Table,'" www.zippypoint.com Video Guide, January 2021
- "Private Company Compensation Trends," JPMorgan, Chicago, IL, September 2019
- "Section 162(m) & Tax Reform Changes," 2018 Annual Proxy Disclosure Conference & Say-on-Pay Workshop, San Diego, CA, September 2018
- "Disclosure for Shareholder Plan Approval," 2018 Annual Proxy Disclosure Conference & Say-on-Pay Workshop, San Diego, CA, September 2018
- "Your Upcoming Pay Ratio Disclosures," www.compensationstandards.com webcast, December 2017
- "Mind the Gap: GAAP vs Non-GAAP Metrics for Incentive Plans," 2017 National Association of Stock Plan Professionals Annual Conference, Washington, DC, October 2017
- "Maybe I Shouldn't Have Said It That Way . . .," 2017 National Association of Stock Plan Professionals Annual Conference, Washington, DC, October 2017 [Presentation focused on crafting board communications and processes with an eye toward potential future litigation]
- "Pay Ratio Workshop: What You (Truly Really) Need to Do Now," www.compensationstandards.com webcast, September 2017
- "Private company liquidity and secondary transactions—Creating win-win events for companies and employees," 3-part webinar series with PWC and Nasdaq Private Market, Summer 2017
- "Advis Alert—How to Address Complex Share Plan Issues," 13th Annual Certified Equity Professional Institute Symposium, Santa Clara, CA, March 2017
- "CEO Pay Ratio and More!" National Association of Stock Plan Professionals San Francisco Chapter, February 2017
- "Proxy Statement Interactive: Corporate Governance Communications Strategies for Shareholder Engagement," Donnelley Financial Solutions, San Francisco Bay, CA, November 2016
- "Hot Topics: 50 Practical Nuggets in 60 Minutes," 2016 Annual Proxy Disclosure Conference & Say-on-Pay Workshop, Houston, TX, October 2016
- "Clawbacks: Post-Panel Commentary," 2016 Annual Proxy Disclosure Conference & Say-on-Pay Workshop, Houston, TX, October 2016
- "Extreme Makeover: Putting a New Face on Board and Compensation Committee Communication," Fidelity Stock Plan Services Client Conference, Half Moon Bay, CA, May 2016
- "Life in the Day of Stock Administration: Death, Divorce, and Disability," 12th Annual Certified Equity Professional Institute Symposium, Santa Clara, CA, March 2016
- "Dodd-Frank 5 Years On—The Adventure Continues," National Association of Stock Plan Professionals Webcast, January 2016
- "Proxy Statement Interactive: Corporate Governance Communications Strategies for Shareholder Engagement," RR Donnelley, San Francisco Bay, CA, November 2015
- "Choose Your Own Equity Adventure!" 2015 National Association of Stock Plan Professionals Annual Conference, San Diego, CA, October 2015
- "Proposed Clawback Rules: How to Prepare for Implementation for Public and Private Companies," San Francisco, CA, August 2015
- "The IPO Journey: An Interactive Discussion," San Francisco, CA, June 2015
- "What Shareholders Want to Approve, When You Want Shareholders to Approve Your Equity Plan," 11th Annual Certified Equity Professional Institute Symposium, Santa Clara, CA, March 2015

- "The Plan's the Thing!...with apologies to Shakespeare," Aspirations 2014: An Emerging Company Conference, Santa Clara, CA, November 2014
- "Navigating Executive Compensation Pre- and Post-IPO," San Francisco, CA, September 2014
- "Proxy and Executive Compensation Update," RR Donnelley SEC Hot Topics Institute, San Francisco Bay, CA, September 2014
- "Pulling Levers to Maximize Value in a Compensation Plan Design," 2014 Silicon Valley NASPP Conference, June 2014
- "Making Your Equity Grants More Effective: 25 Updates in 75 Minutes," 10th Annual Certified Equity Professional Institute Symposium, Santa Clara, CA, March 2014
- "The Business Side of Consulting: How to Limit Your Risk!" Financial Executives Institute, Palo Alto, CA, December 2013
- "Back-to-Basics: Equity Compensation Types, Pros and Cons" Aspirations 2013: An Emerging Company Conference, Santa Clara, CA, November 2013
- "Where'd My Talent Go? Avoiding Equity Plan Mistakes During Acquisition" E*TRADE Private Company Forum, Redwood City, CA, October 2013
- "Stock Plan Proposal & Say-on-Pay Litigation 2.0: How to Avoid the Sharks" 2013 National Association of Stock Plan Professionals Annual Conference, Washington, DC, September 2013
- "Disruptive Compensation... What to Think About Today for Sound Business-Based Compensation for Next Year" Silicon Valley Compensation Association, Santa Clara, CA, September 2013
- "So You Think Your Company is Going to Be Sold? What the Finance Exec Needs to Know To Get a Good Deal Too!" FEI Career Services Luncheon, Palo Alto, CA, April 2013
- "Pablo Picasso Meets Mario Andretti: Creative Designs to Drive Performance and Meet Your Compensation Goals" 9th Annual Certified Equity Professional Institute Symposium, Santa Clara, CA, March 2013
- "Corporate Governance and Listing Standards" Wilson Sonsini Goodrich & Rosati Client MCLE Day, December 2012
- "Compensation Trends" Technology Association of Oregon, Portland, OR, November 2012
- "The IPO Abyss: Splunk-ing through the Challenges of Equity and Executive Compensation" Aspirations 2012: An Emerging Company Conference, Santa Clara, CA, July 2012
- "Internal and External Aspects of Stock Plan Governance" 2012 Global Equity Organization International Conference, Washington, D.C., April 2012
- "Thinking Outside the Box: A World Beyond Options and RSUs" 8th Annual Certified Equity Professional Institute Symposium, March 2012
- "Equity Issues in Mergers and Acquisitions" 2011 National Association of Stock Plan Professionals Annual Conference, San Francisco, CA, November 2011
- "Legal, Administrative, and PRACTICAL Considerations for Expanding Your Equity Programs to the United States" 2011 Global Equity Organization International Conference, Amsterdam, Netherlands, June 2011
- "Employment for Life? Legal and Tax Implications of Unexpected Changes in an Employee's Status," 7th Annual Certified Equity Professional Institute Symposium, Santa Clara, CA, December 8, 2010
- "Legal, Tax and Administrative Headaches With Wacky Vesting Terms, Clawbacks And Other Creative Terms That Keep Cropping Up!," 2010 Silicon Valley NASPP Conference, June 2010