

ATTORNEY BIOGRAPHY



John P. McMorro

Of Counsel

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Practice Groups and Specialty Areas

Labor, Employment and Employee Benefits
 Employee Benefits
 Human Resources-Related Advice and Training
 Education Law
 Business and Financing
 Tax
 Public and Municipal Law

John has 30 years of experience counseling public- and private-sector for-profit and not-for-profit employers and their affiliated business entities, management, human resources professionals, third-party administrators and fiduciaries with respect to the laws that apply to executive compensation arrangements and workforce benefit programs and policies. He works comfortably with HR professionals, general counsel and boards of directors. In 1998, John received a National Performance Review Award from Vice President Al Gore for his assistance in developing and writing the regulations under Section 2043 of ERISA for the Pension Benefit Guaranty Corporation.

Before joining Mirick O'Connell in 2006, John was a partner at Pierce Atwood in Portland, Maine, where he headed the employee benefits counseling group. Prior to that engagement, he served as in-house employment law and benefits counsel for American National Can Company in Chicago. He has also served as first assistant to the general counsel at H.E.R.E.I.U. Pension-Welfare Funds in Aurora, Illinois.

Representative Matters

- Designed and implemented "top-hat" plans, including deferred compensation arrangements, SERPs (including 457(f) and 457(b) plans) excess benefit plans and rabbi trust agreements; separation pay and change of control employment arrangements; equity-based compensation arrangements including stock option plans, restricted stock, phantom stock plans; and counseled employers with respect to 409A compliance
- Designed and implemented qualified retirement plans, including 401(k), 403(b), 457 plans, defined benefit pension, cash balance plans and ESOPs and requested IRS determination letters and advises employers and fiduciaries regarding ERISA 404(c) compliance
- Designed and implemented welfare benefit plans, including self-insured health benefit plans, "wrap" documents, HRAs, HSAs, wellness plans, section 125 cafeteria plans, severance pay and paid time-off plans, and voluntary employees' beneficiary associations (VEBAs)
- Designed and implemented fringe benefit plans, including transportation fringe benefit plans, educational assistance plans and adoption assistance plans

Education

LLM, Taxation, New York University School of Law (1977)

JD, Suffolk University Law School (1976)

AB, Princeton University (1973)

Bar and Court Admissions

Massachusetts
 New Hampshire
 Maine
 Illinois
 U.S. District Court for Massachusetts
 U.S. District Court for New Hampshire
 U.S. District Court for Maine
 U.S. District Court for Northern District of Illinois
 U.S. Tax Court

Professional/Community Affiliations

American Bar Association, Tax Section, Committee on Employee Benefits
 Boston Bar Association, ERISA Section
 Chicago Bar Association, chair, ERISA Fiduciary Committee (1988-89)
 Chicago Kent School of Law, instructor (1979-81)
 Illinois Bar Association
 Maine Bar Association
 Massachusetts Bar Association
 New Hampshire Bar Association
 Worcester County Bar Association
 The Society of the Sons of the Revolution, member

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Representative Matters (continued)

John's practice also includes frequent counsel to employers, fiduciaries and HR professionals issues, such as those listed below:

- Day-to-day administration, operation and interpretation of executive compensation and workforce benefit programs and policies and with respect to the legal compliance, reporting and disclosure requirements related to such programs and policies; the design and implementation claims procedures and other administrative procedures required to administer a workforce benefit programs and achieve legal compliance including hardship, loan, QDRO and QMCSO procedures. John drafts amendments of workforce benefit programs and policies as changes in the laws, labor negotiations or organizational developments dictate, as well as board votes to approve such amendments and employee communications related thereto. He negotiates vendor, third-party record keeper/administrator, ASO and business associate agreements related to the operation and administration of employee benefit plans
- Counsel to employers regarding 409A compliance. John has extensive drafting experience to achieve 409A compliance with respect to existing deferred compensation arrangements, including SERPs (457(f) and 457(b) plans), separation pay and change of control agreements; he negotiates and drafts new executive employment agreements with separation payments that are 409A compliant, and he evaluates and develops strategies to address 409A issues in acquisitive transactions
- Counsel to health plans and health care providers with respect to HIPAA's portability, privacy and security rules on group health plans. John designs and implements legal compliance strategies and related documentation. He also counsels employers, fiduciaries and HR professionals with respect to the impact of COBRA, USERRA, FMLA, Medicare and other group health plan Federal and state mandates on workforce benefit programs
- Counsel to employers with respect to their responsibilities under the Massachusetts Health Care Reform Act including counseling related to the employer "fair share" contribution, the "free rider surcharge," the Employer and Employee HIRD Forms and related to the tax implications of extended health coverage for persons who are not "dependents" for Federal income tax purposes. John designs and implements legal compliance strategies and related documentation; extensive contact with legal counsel for the Massachusetts Connector Authority regarding the interpretation of and practical application of the act's rules to employer sponsored group health plans
- Counsel to employers with respect to developing a fiduciary governance structure that is designed to manage fiduciary liability risks; drafts investment policies, and counsels employers and fiduciaries with respect to correcting mistakes through the IRS Employee Plans Compliance Resolution System, the DOL Voluntary Fiduciary Correction and the Delinquent Filer Voluntary Compliance programs
- Counsel to employers with respect to issues raised by internal and external auditors related to executive compensation and workforce benefit programs and negotiates and drafts management representations with respect to such arrangements and programs; and represents and or counsels employers whose work force benefit programs are audited by the IRS, DOL or PBGC. He has successfully concluded many government audits favorably for his clients
- Negotiation and completion of the due diligence related to deferred compensation arrangements and work force benefit programs in the context of business mergers, initial public offerings, acquisitions and dispositions, including multiemployer withdrawal liability; works with employers to address the issues that arise with respect to the deferred compensation arrangements and workforce benefit programs, including the termination of qualified retirement plans, the merger or spins off qualified retirement plan assets; and advises employers and fiduciaries regarding timing of blackout notices under Sarbanes-Oxley
- Counsel to employers and fiduciaries with respect to "benefits" issues that arise in the context of corporate acquisitions, divestitures, workforce reductions and outsourcing; counsels employers regarding the impact of securities laws on deferred and equity compensation arrangements and work force benefit programs and work with public companies with respect to their SEC disclosure obligations, including proxy statement disclosures; and counsels employers and fiduciaries contemplating or facing ERISA litigation

Publications/Presentations

Mr. McMorrow is a frequent speaker and author, presenting papers and lecturing at a variety of forums. Selected publications/presentations are listed below.

- Speaker, "Fiduciary Governance and Best Practices for Managing Fiduciary Responsibility and Fiduciary Risk," Fiduciary University, Sentinel Benefits Group, November 2010
- Speaker, "Key Employer Elements in Health Care Reform Changes Effective for 2010, 2011 and 2012," Mirick O'Connell Seminar, September 14, 23 and 24, 2010 and Worcester Business Expo, October 2010
- "IRS Initiates 401(k) Compliance Check Project," Mirick O'Connell Client Alert, July 2010
- Panelist, "2010 Compliance Update for Health & Welfare Plans," Mirick O'Connell Labor, Employment and Employee Benefits Seminar, March 2010
- Speaker, "COBRA Subsidy Extended, DOL Issues New Model COBRA Notices," Mirick O'Connell Tax & Benefits Seminar, January 2010
- "Dealing with the New 409A Rules", Mirick O'Connell, UHY Advisors, N.E., and Delphi Valuation Advisors, Inc. Seminar, September 2009

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- “The COBRA Premium Assistance Subsidy,” The New England Job show, local access television, May 2009
- Speaker, “The American Recovery And Reinvestment Act Of 2009, COBRA Premium Subsidy & Other Changes: What Employers Need To Do To Comply,” Worcester Regional Chamber of Commerce, April 2009; Mirick O’Connell Tax & Benefits Seminar, February and March 2009; Vision Payroll, March 2009; North Central Massachusetts Chamber of Commerce, March 2009; Mirick O’Connell Labor, Employment & Benefits Law Update Seminar, March 2009; and Pinnacle Financial Group, April 2009
- Panelist, “New Developments in Massachusetts Health Care Law: What Employment, Benefits and Insurance Lawyers Need to Know,” Boston Bar Association, March 2009
- Panelist, “Employer-Provided Educational Assistance and Tuition Reduction Plans,” Colleges of Worcester Consortium, Inc., February and June 2009
- Panelist, “An Employer’s Guide to the New Section 125 Cafeteria Plan Rules,” Corporate Benefit Plans, Inc., September 2008
- Moderator, “ERISA Litigation: The Evolving Landscape And The Fiduciary Quagmire,” Massachusetts Continuing Legal Education, Inc., July 2008
- Panelist, “Know Your Obligations: An Employer’s Guide to Dependent Eligibility Under Mass Health Care Reform and The Imputed Income Rules,” Hollister Insurance Brokerage, June 2008; Vision Payroll, June 2008; and Alexander Aronson Finning, July 2008
- Panelist, “Tax Issues Related To Health Coverage For Same-Sex Spouses, Children and Ex-Spouses Under MA Law,” Boston Bar Association, March 2008; Mirick O’Connell Tax & Benefits Seminar, May 2008
- Panelist, “How 409A Impacts Separation Pay Arrangements Including Employment Agreements”, Mirick O’Connell, April 2008
- Panelist, “What Employers Need to Know About 409A,” Massachusetts MetroWest Chapter of Worldwide Employee Benefits Network (WEB), November 2007
- Panelist, “What Employers Need to Know About: ERISA Fiduciaries And Their Duties, Code §409A and Deferred Compensation”, Mirick O’Connell Labor & Employment Law Update Seminar, November 2007; New England Business Expo, October 2007
- Quoted in “Why Would A Modern Company Offer A Pension Plan?” Worcester Business Journal (October 2007)
- Panelist, “Dealing with the New 409A Rules”, Mirick O’Connell, UHY Advisors, N.E. and Delphi Valuation Advisors, Inc. Seminar, September 2007
- Panelist, “Mass Health Care Reform,” Mirick O’Connell, April 2007
- Panelist, “Pension Protection Act of 2006,” Mirick O’Connell Labor & Employment Law Update Seminar, November 2006
- Panelist, “New Traps for Executives and Business Owners: What You Need to Know About Code §409A,” North Central Massachusetts Chamber of Commerce, October 2006
- Panelist, “Electronic Payment Cards For Processing Health FSA/HRA Claims,” Lorman Education Services, December 2005
- Panelist, “Executive Compensation and ERISA Fiduciaries and Their Duties,” The American Association of State Compensation Insurance Funds (AASCIF), September 2005
- Panelist, “Employee Stock Ownership Plans (ESOPs): Where and How to Find Sales?,” The Principal Financial Group, July 2005
- Panelist, “Roth Contributions to 401(k) and 403(b) Plans,” The Principal Financial Group, June 2005
- Panelist, “Executive Compensation,” Lebel & Harriman LLP, May 2005
- Panelist, “Section 125 Cafeteria Plans: Plan Basics and Design Considerations and Mid-Year Election Changes,” Lorman Education Services, April 2005
- Panelist, “Non-Qualified Deferred Compensation Plans and the New Tax Law,” Maine Employee Benefits Council, March 2005
- Panelist, “American Jobs Creation Act of 2004: Non-Qualified Deferred Compensation,” Maine Society of CPAs, December 2004
- Panelist, “Health Savings Accounts,” Lorman Education Services, December 2004
- Panelist, “New Developments in HIPAA and Employee Benefits Law,” Council on Education in Management, September 2004
- Panelist, “Employee Benefits in Corporate Transactions,” The Chicago Bar Association Continuing Legal Education Series, May 1996