

## ATTORNEY BIOGRAPHY



### John P. McMorrow

Of Counsel

**Tel:** 508.929.1612 | **Fax:** 508.463.1382 | **Email:** jmcorrow@mirickoconnell.com

**Worcester Office:** 100 Front Street | Worcester | MA | 01608-1477

### Legal Administrative Assistant

Jill M. Coderre

Tel: 508.929.1605 | Email: jcoderre@mirickoconnell.com

### 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  
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)  
  
Massachusetts Bar Association  
  
New Hampshire Bar Association  
  
Princeton University, Class of 1973, vice  
president; Reunion chair; Society of the Claw,  
member  
  
The Society of the Sons of the Revolution  
  
Worcester Economic Club, Board of Directors;  
former president  
  
Westborough Country Club, former Golf  
Committee member

### Practice Groups and Specialty Areas

Labor, Employment and Employee Benefits  
Health Law  
Education Law  
Business and Financing  
Tax  
Public and Municipal Law

John has over 35 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, in-house counsel and boards of directors/trustees. In 1998, John received a National Performance Review Award from Vice President Al Gore for his assistance in developing and writing the "reportable event" regulations under Section 2043 of ERISA for the Pension Benefit Guaranty Corporation. In 2014, John was inducted into the Xaverian Brothers High School Athletics Hall of Fame. In 2015, John was qualified as an expert witness in tax and employee benefits and testified in a litigated matter, resulting in a favorable decision for the State of Rhode Island.

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, Illinois. 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(b) and 457(f) 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; amend and terminate such plans
- Designed and implemented welfare benefit plans, including self-insured health benefit plans, "wrap" documents, HRAs, HSAs, wellness incentive programs, 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

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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 employers with respect to their responsibilities under the Federal Health Care Reform including all aspects of the Affordable Care Act affecting employers and providers, 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 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 developing a fiduciary governance structure to manage ERISA 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

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

- "Employee Benefits Tax Relief Under The Cares Act," Mirick O'Connell Client Alert, April 6, 2020
- "The DOL Fiduciary Investment Advice Rule – Issues for Plan Sponsors and Recordkeepers," Boston Bar Association, September 2016 (panelist)
- "Employer Notices of ACA-Subsidized Employees," Mirick O'Connell Client Alert, March 2016
- "An Introduction to the Practice of Tax Law," Boston Bar Association, January 2016 (panelist)
- "The Affordable Care Act's New Reporting Requirements Under Internal Revenue Code (Code) Sections 6055 and 6056," Boston Bar Association, November 6, 2015 (moderator and panelist)
- "An EPCRS Overview," *HRMA Perspectives*, October 2015
- "Employer Shared Responsibility Provisions of the Affordable Care Act," Mirick O'Connell 2015 Labor, Employment and Employee Benefits Seminar, March 2015 (presenter)
- "HIPAA: An Update – What did the Omnibus Rule Do and Why is Compliance so Important," Mirick O'Connell Health Law Seminar, November 6, 2013 (presenter)
- Quoted, "Weighing in on AVA Delay, Repeal of Fair Share Contribution in Massachusetts," *Worcester Business Journal*, July 16, 2013

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- Quoted, “White House Calls Time Out on Key Health Reform Provisions,” *Worcester Business Journal*, July 8, 2013
- Panelist, “Federal Health Care Reform Update: Is Your Clients’ ACA Implementation On Track?,” Mirick O’Connell Labor, Employment and Employee Benefits Seminar, March 2013
- “The Department of Labor (DOL) Issues ERISA Technical Release 2013-12,” Mirick O’Connell Client Alert, March 2013
- “Departments of Labor, Health and Human Services and the Treasury Release New Guidance regarding the Affordable Care Act,” Mirick O’Connell Client Alert, January 2013
- “Failure to Provide COBRA Notice for Terminated Employees Can Be Costly,” Mirick O’Connell Client Alert, November 2012
- “Patient Protection and Affordable Care Act,” Mirick O’Connell Client Alert, June 2012
- “IRS Releases Guidance on the \$2,500 Limit for Salary Reduction Contributions under Health FSAs,” Mirick O’Connell Client Alert, June 2012
- “Compliance with Summary of Benefits and Coverage Requirements Delayed,” Mirick O’Connell Client Alert, December 2011
- “HHS to Begin HIPAA Privacy and Security Audits in November 2011,” Mirick O’Connell Client Alert, November 2011
- “Most Retirement Plan Limits are Changed for 2012,” Mirick O’Connell Client Alert, October 2011
- “June 30<sup>th</sup> Deadline to Amend Cafeteria Plans for Over-the-Counter Drug Restriction,” Mirick O’Connell Client Alert, June 2011
- Panelist, “Fiduciary Governance and Best Practices for Managing Fiduciary Responsibility and Fiduciary Risk,” Mirick O’Connell Labor, Employment and Employee Benefits Seminar, March 2011
- 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
- “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)

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- 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