

Brian M. Pinheiro
Partner

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Areas of Focus

Employee Benefits and Executive Compensation, Business and Finance, Health Care, Health Care Reform, Higher Education, Investment Management, P3/Infrastructure, Privacy and Data Security, Emerging Growth and Venture Capital, HIPAA, Mergers and Acquisitions, Private Equity

Background & Experience

Brian M. Pinheiro is Chair of Ballard Spahr's Business and Finance Department and the Practice Leader of the firm's Employee Benefits and Executive Compensation Group. He is also a member of Ballard Spahr's Elected Board.

He represents for-profit, tax-exempt, church, and government employers on matters relating to executive compensation, including Section 409A and the Section 280G golden parachute rules; tax-qualified retirement plans, including cash balance pension plans; 401(k), 403(b), and 457 plans; and health and welfare benefit plans.

Brian focuses on compliance with the statutory and regulatory rules relating to such plans, including rules arising out of ERISA, the Internal Revenue Code, HIPAA, COBRA, and the ADEA. He advises boards of directors and compensation committees on the design and operations of executive compensation arrangements, and he counsels retirement plan investment committees on ERISA fiduciary issues. He has represented employers before the IRS, the U.S. Department of Labor (DOL), and the Pension Benefit Guaranty Corporation, and has assisted employers in seeking approval under various government-sponsored voluntary correction programs, including the IRS Employee Plans Compliance Resolution System (EPCRS) and the DOL Voluntary Fiduciary Correction Program (VFCP). Brian has advised clients extensively on strategies and compliance

under the Patient Protection and Affordable Care Act. He also has advised clients on health plan compliance with the HIPAA privacy and security regulations.

Brian joined the firm in 1997 following two years as a Tax Law Specialist with the Employee Plans Division of the Internal Revenue Service (National Office). At the IRS, Brian reviewed various types of retirement plans for qualification under section 401 (a) of the Internal Revenue Code. He also worked extensively in the IRS Voluntary Compliance Resolution program to assist employers in correcting operational failures in their tax-qualified plans.

Professional Highlights

Professional Activities

American Bar Association

District of Columbia Bar Association

Pennsylvania Bar Association

Temple University James E. Beasley School of Law, Adjunct Professor, courses on employee benefits policy and tax-qualified retirement plans

Recognition & Accomplishments

Chambers USA: America's Leading Lawyers for Business, labor and employment: employee benefits and compensation law, 2006-2017

The Best Lawyers in America, employee benefits (ERISA) law, 2010-2018

Named to *Philadelphia Business Journal's* 2010 "40 Under 40" list, recognizing professional excellence and outstanding community involvement

Recipient, the Brennan Award, on behalf of the Philadelphia Volunteers for the Indigent Program (VIP) in recognition of time and effort working on behalf of equal justice for all people

Recipient, *The Legal Intelligencer* and *Pennsylvania Law Weekly's* 2007 "Lawyers on the Fast Track" award, given to select young Pennsylvania lawyers whose achievements have distinguished them among their peers

Publications

Co-author, "Breach of Fiduciary Duty Case Against University Retirement Plan Fiduciaries Survives Motion to Dismiss," Ballard Spahr alert, May 12, 2017

Co-author, "House Passes American Health Care Act," Ballard Spahr alert, May 5, 2017

Co-author, "HHS Finalizes Health Insurance Market Stabilization Rules," Ballard Spahr alert, April 19, 2017

Co-author, "ACA Repeal and Replace Plan is Released," Ballard Spahr alert, March 7, 2017

Co-author, "Expect Pro-Business, Pro-Employer Changes Under Trump Administration," Ballard Spahr alert, January 20, 2017

Co-author, "Flexibility Offered for Deferred Compensation Plans of Tax-Exempt Organizations, Government Agencies," Ballard Spahr alert, June 22, 2016

Co-author, "PA's Medical Marijuana Act: Challenges for Employers," Ballard Spahr alert, April 29, 2016

Co-author, *Employee Stock Ownership Plan Answer Book*, Fourth Edition, Wolters Kluwer Law & Business

Co-author, *Employer's Guide to Health Care Reform*, 2010-2016 editions, Wolters Kluwer Law & Business

Co-editor, *ERISA—A Comprehensive Guide*, Wolters Kluwer Law & Business, and co-author, two of the *Guide's* chapters, "Qualified Retirement Plans" and "ERISA's Fiduciary Responsibility Provisions"

Co-author, "OFCCP Publishes Final Rule on Pay Transparency for Federal Contractors, Subcontractors," Ballard Spahr alert, September 15, 2015

"A View of *King v. Burwell* from Inside the Courtroom," *Employee Benefit Adviser*, March 9, 2015

Co-author, "IRS Issues Guidance on Retirement Plans and Same-Sex Spouses," Society for Human Resource Management, April 9, 2014

"Strategic Perspectives: Practitioners' Corner: Final Employer Mandate Regulations Amplify Key Terms, Requirements," *Federal Tax Weekly*, March 16, 2014

"Long-Awaited ACA Regulations Fuel Employer Work for 2014," *Employee Benefit News*, February 13, 2014

"DOL Changes Timing of Required Employer 401 (k) and 403(b) Disclosures," *Employee Benefit Adviser*, July 26, 2013

"For Company Owners – An Alternative Exit Strategy," *50+ Housing* online magazine, April 1, 2013

Co-author, "Legislation Provides New In-Plan Roth Conversion Opportunity," SHRM.org, January 9, 2013

"HHS Changes Annual Limit Waiver Procedure for Mini-Med Plans," *Employee Benefit News*, June 23, 2011

Published in May and November 2007 editions of *The Corporate Lawyer*, a monthly publication of the Illinois State Bar Association, for his summary of the Section 409A final regulations and additional IRS guidance

Speaking Engagements

Frequent lecturer on employee benefits issues and at firm-sponsored seminars for clients as well as seminars sponsored by the Pennsylvania Bar Institute, Lorman Educational Services, and the Public Employer Labor Relations Advisory Service

"Employee Benefits Outlook 2018: What's Hot and What's Not," 2017 Ballard Spahr SEPA SHRM HR Legal Summit, September 14, 2017

"General Counsel Issues in Higher Education," a Ballard Spahr webinar, January 17, 2017

Guest Speaker, "In the Workplace" segment, *Sirius XM Business Radio*, November 3, 2016

"Employee Stock Ownership Plans (ESOP) 101," A Ballard Spahr, Archer & Greiner, Capital Trustees, and Katz, Sapper & Miller webinar, March 23, 2016

"Hot Topics in Employee Benefits," 2015 HR Legal Summit: Labor and Employment Law Compliance for Today's HR Professional, Ballard Spahr and SEPA SHRM conference, Langhorne, Pa., September 11, 2015

"Fiduciary Gridiron? How to Succeed on the Field: Selecting Your Team," BDO Webinar, May 21, 2015

"Legislative Update," PEBA, December 11, 2014

"Preparing for the Affordable Care Act in 2015:

Important Issues for Employers," The Leff Company ACA webinar, October 29, 2014

"Retirement Plans – Best Practices from Plan Design to Fiduciary Education," Ballard Spahr and Portfolio Evaluations joint webinar, May 22, 2014

"Qualified Plans," PEBA M&A Boot Camp, January 16, 2014

Speaker on health care reform, Southeastern PA Healthcare Alliance, December 5, 2013

"Health Care Reform Now: 2014 Legal Compliance, Organizational Implications and Strategic Preparation," SHRM, November 1, 2013

"Health Care Reform: 2013 and 2014 Decisions for Employers," ASRW Conference, October 18, 2013

"2013 HR Legal Summit: Labor and Employment Law Compliance for Today's HR Professional," Ballard Spahr and SEPA SHRM conference, Trevese, Pa., September 20, 2013

"Health Care Reform: 2013 and 2014 Decisions for Employers," Uninvest, September 17, 2013

"Health Care Reform – Decisions for Employers in 2013," Ballard Spahr Housing webinar, July 16, 2013

Panelist, Health Care Reform Panel, Southeastern Pennsylvania Healthcare Alliance, Glen Mills, Pa., April 29, 2013

"A PHA's Responsibility under the Patient Protection and Affordable Care Act," Housing and Development Law Institute, HDLI Spring CLE Conference, Washington, D.C., April 25, 2013

"Fiduciary Developments for 401(k) and 403(b) Plans," Florida West Coast Employee Benefits Council, FWCEBC Annual Educational Workshop, Tampa April 23 2013

"Power Packed Legal Platform," Philadelphia SHRM Symposium 2013, Philadelphia, March 22, 2013

"Health Care Reform Compliance," Gladwyne, Pa., February 6, 2013

Health Care Reform Panel, The Wharton School, University of Pennsylvania, October 10, 2012

"Labor and Employment Law Developments: The Year in Review," Workplace Law Today, Ballard Spahr seminar, May 9, 2012

"Health Care Check-Up 2012," Pennsylvania League of Cities and Municipalities, PELRAS Annual Training Conference, March 22, 2012

"Defined Contribution Plans: Fee Disclosure," Greater Valley Forge Human Resources Association Seminar, March 8, 2012

"Employment and Employee Benefits Law for Nonprofits," Ballard Spahr CLE program, Philadelphia, February 8, 2012

"M&A Boot Camp: Qualified Retirement Plans," PENJERDEL Employee Benefits and Compensation Association, November 10, 2011

Featured in interview, *The Employee Benefit Adviser* podcast, January 30, 2009, discussing possible changes to COBRA regulations stemming from the 2009 stimulus package

Guest lecturer, Fels Institute of Government at the University of Pennsylvania

Speaker, 2005 Mid-Atlantic Benefits Conference, jointly sponsored by the Internal Revenue Service and the American Society of Pension Professionals & Actuaries (ASPPA)

Panelist, "State of the Health Care Industry," Labor

and Employment Relations Association (LERA)
Chapter Meeting, November 10, 2009

Panelist, "ERISA for In-House and Corporate
Counsel—How to Spot the Benefits Issues Before
They Become Crises," Philadelphia Bar
Association's Employee Benefits Committee,
August 21, 2009

"Sick Over Rising Health Care Costs? Strategies for
Plan Changes," Pennsylvania League of Cities and
Municipalities Annual Convention, June 20, 2007

"HSAs: The Devil is in the Details," Third Annual
Health Benefits Partnership Conference, May 21-
24, 2007

"How Much Are You Really Paying Your 401
(k)/403(b) Provider?" Church Plan Workshop, April
15-18, 2007

"Sick Over Rising Health Care Costs? Strategies
for Plan Changes," Public Employer Labor
Relations Advisory Service (PELRAS), March 21,
2007

"Cash Balance Litigation Current Developments,"
The American Society of Pension Professionals &
Actuaries, November 14, 2006

"Medicare Part D," PENJERDEL Employee
Benefits and Compensation Association, June 21,
2006

"Public Sector Retiree Health and Welfare
Benefits—Can They Be Modified?" Wilmington
Trust GASB 45 Webinar, June 13, 2006

"Executive Director Contracts," 2006 LaSalle
Nonprofit Strategies Forum, June 6, 2006

"New Requirements for Executive Compensation in
Privately Held Companies," Ballard Spahr Webinar,
May 18, 2006

"Facing (And Controlling?) Your Retiree Health Care Obligations!" Public Employers Labor Relations Advisory Service, March 30, 2006

"Fiduciary Issues for 2006 and Beyond," PENJERDEL Employee Benefits and Compensation Association, November 10, 2005

"Executive and Deferred Compensation—New Rules Under Section 409A," Ballard Spahr teleconference, October 25, 2005

"Due Diligence Investigations," Pennsylvania Bar Institute, Mechanicsburg, Pennsylvania, August 12, 2005; Pittsburgh, August 30, 2005

"Forget-Me-Nots Mergers and Acquisitions," The American Society of Pension Professionals & Actuaries, May 23, 2005

"Stop the Insanity! Strategies for Controlling Health Care Costs," Public Employers Labor Relations Advisory Service, April 7, 2005

"Benefits Potpourri for Employment Lawyers," Pennsylvania Bar Institute, March 10, 2005

"Section 409A: New Rules for Executive and Deferred Compensation," Ballard Spahr webinar, February 3, 2005

Board Memberships

Board of Trustees, Settlement Music School, the largest community school of the arts in the United States

PENJERDEL Employee Benefits and Compensation Association (PEBA)

Education

The Catholic University of America Columbus School of Law (JD, 1995 *magna cum laude*)

Production Editor, *Catholic University Law Review*

Georgetown University Law Center (LL.M. 1997,
with distinction; Certificate in Employee Benefits)

Boston College (B.A. 1992)

Admissions

Pennsylvania

District of Columbia