



Brian Giovannini

Counsel

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Houston

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PRACTICES Employee Benefits and Executive Compensation, Plan Fiduciaries Counseling, ESOPs and Other Stock-Based Plans, Executive and Incentive Compensation, Retirement Plans, Employee Benefits M&A, ERISA and Other Benefits Litigation, Government Audits and Investigations

Brian Giovannini serves as an advisor and benefits counsel to a diverse group of clients - from local governments to Fortune Global 500 corporations. Brian's clients value his in-depth technical knowledge and analytical skills, as well as his prompt assistance on numerous legal issues affecting the development and operation of their pension plans and executive compensation plans and agreements.

Brian leverages creativity in his day-to-day legal practice - whether he's uncovering a novel solution to a client's compliance problem, or designing a new integrated bonus-pool compensation structure that is unique to the client's business needs. Brian has restated and merged pension plans, provided counsel regarding liability, de-risking solutions for pension plans, and assisted in redesigning a comprehensive global benefits program.

With a background in teaching and public speaking, Brian presents complex benefits issues in a concise and straightforward manner. Brian lectures to industry groups on various employee benefits topics, as well as providing in-depth ERISA fiduciary training to executives and plan committees.

Professional Recognition

- Recognized in *Chambers USA*, *Chambers and Partners*, for Employee Benefits & Executive Compensation (Houston), 2021-2023

Professional and Community Activities

- Board Member, International Primate Protection League, 2013-2019 (Chairman 2016-2017)
 - Board Member, Houston Compensation and Benefits
 - Vice-Chair, Employee Benefits & Executive Compensation Committee, State Bar of Texas Tax Section
 - Co-Chair, Fashion Funds the Cure - Houston, National Pediatric Cancer Foundation
 - Member, Southwest Benefits Association
 - Member, Houston Bar Association
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QUALIFICATIONS

EDUCATION

- J.D., The University of Texas School of Law, 2008, *with honors*; Board of Advocates
- B.A., University of Houston, 2005, *cum laude*; (graduated from Honors College)
- Certificate in Italian Language, Università per Stranieri di Siena, 1994

LANGUAGES

- Italian

ADMISSIONS

- Texas

COURT ADMISSIONS

- U.S. Court of Appeals for Veterans Claims
 - U.S. Tax Court
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PUBLICATIONS AND SPEAKING ENGAGEMENTS

- "Avoiding Common Compliance Failures in Retirement Plans", panelist, *Avoid the Audit Ax: Sharpen Your Compliance Practices*, April 17, 2024.
- "What's Next with SECURE 2.0: Compliance Issues and Voluntary Provisions Update" presenter, Southwest Benefits Association (SWBA) Houston Workshop, February 15, 2024.
- "Ethical Issues when Advising ERISA Plan Sponsors and Plan Fiduciaries", presenter, 2023 Ethics in Employment Law, Houston, November 14, 2023.
- "The Challenges and Pitfalls of Worker Classification for Employee Benefits", panelist, State Bar of Texas Tax Section, June 16, 2023.
- "SECURE 2.0 Act: New Options for Employers," presenter, Employment Law Updates, Houston, TX, April 27, 2023.
- "SECURE 2.0 - A 360° View in 60 Minutes", Panelist, FORVIS, April 26, 2023.
- "Secure Act 2.0 – Get Up to Speed on What You Need to Know Now", presenter, *State Bar of Texas Tax Section*, March 21, 2023.
- "Ethical Issues when Advising ERISA Plan Sponsors and Plan Fiduciaries", presenter, *Ethics in Employment Law*, November 3, 2022.
- "Retirement Plan Cybersecurity—Truth, Justice, and the DOL Way" co-author, *Practical Guidance*, September 2021.
- "Retirement Plans: Navigating Recent Law Changes & Using Them to Your Advantage," presenter, PKF Employee Benefit Plan webinar, June 25, 2020.
- "How to Protect Your Employees who are ERISA Plan Fiduciaries and Other Employee Benefits Updates," presenter, Houston Employment Law Update, May 22, 2019.
- "How to Protect Your Employees who are ERISA Plan Fiduciaries: Recent Developments," presenter, Houston Employment Law Update, May 17, 2018.
- "What to Do When You Receive an Out-of-Network Shakedown Letter," co-author, *HR Magazine*, September 2017.
- "Post-PPACA Proposals for Employer-Sponsored Health Coverage," speaker, ERISA Industry Group, February 14, 2017.
- "The Final Fiduciary Rule: Why it Matters to Plan Sponsors," speaker, Haynes and Boone Internal CLE, August 31, 2016.
- "Employer Shared Responsibility and the Risks of a Contingent Workforce," speaker, Annual Employment Law Update, May 18, 2016.

- “Current Developments with the Affordable Care Act and ERISA Fiduciary Litigation,” speaker, Houston Business and Estate Planning Council, April 28, 2016.
- “The Practical Impact on ERISA Plan Fiduciaries of *Tibble v. Edison Int’l*,” speaker, Haynes and Boone Internal CLE, 2015.
- “Classifying Full-Time Employees Under the Affordable Care Act,” speaker, American Petroleum Labor Lawyers Association Annual Meeting, October 16, 2014.
- “Healthcare Reform: Practical Strategies,” speaker, Haynes and Boone Internal CLE, April 18, 2014.
- “Employment Tax on Settlement Agreements in ERISA Cases,” author, *Texas Tax Lawyer*, March 2014.
- “Protect Against Derivative ERISA Claims,” author, *HR Magazine*, January 2014.
- “From DOMA to PPACA: What Needs to Be Done Now With Your Benefit Plans,” speaker, 17th Annual Employment Law Update, September 24, 2013.
- “Minimizing Fiduciary Exposure for Employee Benefit Committee Members,” speaker, Haynes and Boone Internal CLE, April 2, 2013.
- “Fiduciary Responsibility and Liability,” speaker, ASPPA Benefits Council of the Texas Gulf Coast, May 8, 2012.
- “How to Protect Plan Fiduciaries and Satisfy Your Fiduciary Duties under ERISA,” speaker, West Houston Chamber of Commerce, April 5, 2012.
- “ERISA Provisions in Credit Agreements,” speaker, Haynes and Boone Internal CLE, March 15, 2012.
- “ERISA Issues in Corporate Transactions: Fiduciary Liability,” speaker, Haynes and Boone Internal CLE, January 19, 2012.
- “ERISA Fiduciary Review 2011,” speaker, ISCEBS Houston Chapter, December 1, 2011.
- “Tax Benefits and Allocation Issues in Rollovers to Roth IRAs,” author, *Texas Tax Lawyer* November 2011.
- “Executive Compensation: Current ‘Say on Pay’ Legislation,” speaker, Haynes and Boone Internal CLE, October 13, 2009.

SELECTED CLIENT REPRESENTATIONS

M&A Benefits Integration

- Coordinated the spinoff and integration of U.S. employee benefits programs in a \$63 billion merger of petroleum subsidiaries into a multinational energy company creating a top-10 global independent oil and gas company.
- Assisted with integration of all U.S. employee benefits programs in a merger that created the largest energy infrastructure company in North America.
- Assisted with employee benefits and executive compensation matters relating to combination of private energy industry client with other entity to create a new public entity with combined value of \$3.8 billion.
- Assisted with the integration of employee benefits for both union and non-union employees during \$1.89 billion acquisition by an energy industry client.
- Assisted with employee benefits and executive compensation legal matters arising out of \$1.6 billion cash and stock merger of a global specialty chemicals supplier.

International Employee Benefits

- Assisted multinational energy client in determining the most cost-efficient method for structuring fringe benefit program for expatriates.
- Developed compensation structure for inpatriate executives of multinational energy client.

- Assisted multinational energy client in determining the eligibility of expatriates to participate in tax-qualified deferred compensation programs.

Executive Compensation

- Drafted stock incentive plans and related award agreements.
- Reviewed and amended nonqualified deferred compensation plans to comply with Code Section 409A.
- Terminated nonqualified deferred compensation plans.
- Corrected nonqualified deferred compensation plans failures.
- Analyzed employment agreements, severance agreements, and top hat plans for legal compliance.
- Advised clients on a variety of compliance questions relating to nonqualified plans.

ERISA Retirement Plans

- Assisted in structuring financing arrangement for leveraged ESOP transactions.
- Converted defined benefit plan to hybrid cash balance plan.
- Merged defined benefit plans.
- Merged defined contribution plans.
- Amended and restated tax-qualified retirement plans to remain compliant with changes in federal law.
- Advised clients on a variety of ERISA and Internal Revenue Code compliance questions.

Governmental Retirement Plans

- Amended and restated tax-qualified retirement plans to remain compliant with changes in federal law.
- Advised clients on a variety of compliance questions under Texas state law and the Internal Revenue Code.