# Constance Brewster

Partner

Atlanta
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Constance provides comprehensive advice on employee benefits and executive compensation matters. She dives deeply into her clients' businesses to help manage daily compliance and governance issues, close key deals, and structure solutions to advance client goals.

## OVERVIEW

Constance works closely with human resources, executive officers, and plan fiduciaries of public and private entities on all aspects of employee benefits and compensation matters. Applying deep knowledge of the law and nearly a decade of experience, she provides clear and practical guidance that addresses each client's unique business needs. Constance's diverse practice includes handling pre and post-M&A issues for clients in highly regulated industries, such as financial services.

As a full-service strategist with client relationships spanning decades, Constance:

- advises on the design and administration of defined contribution and defined benefit plans. She helps clients navigate the various laws that govern benefit plans, including the Internal Revenue Code (Code) and ERISA, governmental submissions, plan amendments, participant communications, plan merger and termination, and withdrawal liability and mitigation for multiemployer plans;
- addresses governance and fiduciary issues, such as establishing benefit plan committees and investment subcommittees, preparing board and committee resolutions, negotiating service provider and vendor agreements, and reviewing and preparing investment policy statements and fiduciary training materials;
- develops solutions for executive compensation issues, such as drafting and analyzing nonqualified deferred compensation, equity, and incentive plans; employment agreements, severance agreements and severance plans; and performing analyses per Code Sections 409A, 162(m), and 280G;
- negotiates transaction documents, performs necessary 409A and 280G analyses, conducts due diligence, and advises on 280G mitigation and other benefit plan integration issues in connection with M&A and other complex corporate transactions; and
- advises on the implementation of flexible spending accounts, health reimbursement arrangements, health savings accounts, and COBRA matters.

Public entities also work closely with Constance to design, implement, and administer employee benefit plans, including 401(k) and 403(b) tax qualified retirement plans, defined benefit and defined contribution plans under

401(a) and 457, and governmental pick-up arrangements under 414(h).

Constance is involved in a variety of firm initiatives that reflect her commitment to superior client service and to developing junior attorneys. As the leader of her practice group's business development efforts, she focuses on creating and promoting the firm's innovative client solutions, including HighQ. She also mentors several firm associates, is a member of the recruiting committee for the Atlanta office, and serves as an advisor to the firm's summer associate program. Constance is the cofounder of a national employee benefits and executive compensation networking group that fosters cross-collaboration among industry professionals throughout the U.S.

## REPRESENTATIVE MATTERS

- Represented a bank holding company on 280G, compensation, and benefits matters in a merger of equals creating a top 10 Virginia community bank with approximately $1.6 billion in total assets.
- Advised several banks with respect to golden parachute issues, a 280G shareholder vote, due diligence, and pre- and post-merger integration of compensation and benefits.
- Prepared numerous IRS correction program submissions for 401(k) and defined benefit plans.
- Represented an employer through a Department of Labor investigation of its 401(k) plan.
- Presented fiduciary training for numerous plan fiduciaries and benefit committees.
- Assisted numerous employers with plan formation, design, amendment, termination, and mergers.

## AWARDS

- *Best Lawyers in America®: Ones to Watch:* Corporate Law (2023-2025), Employee Benefits (ERISA) Law (2023-2025)
- *Chambers USA*: Employee Benefits & Executive Compensation, Georgia (2022-2025)

## TOP AREAS OF FOCUS

- Corporate
- Employee Benefit Guidance on Workforce Transitions
- Employee Benefits + Executive Compensation
- Executive + Equity-Based Compensation
- Mergers + Acquisitions
- Plan Governance, Investment + Fiduciary Issues
- Tax-Qualified Retirement Plans

## ALL AREAS OF FOCUS

- Corporate
- Employee Benefit Guidance on Workforce Transitions
- Employee Benefits + Executive Compensation
- Executive + Equity-Based Compensation
- Financial Services
- Governmental Audits, Benefit Claims + ERISA Litigation
- Health + Welfare Plans
- Mergers + Acquisitions
- Plan Governance, Investment + Fiduciary Issues

- Tax-Qualified Retirement Plans

## PROFESSIONAL/COMMUNITY INVOLVEMENT

- Former member, Professional Development Subcommittee
- Member, Women's Leadership Steering Committee
- Atlanta Recruiting Committee (2022-2025)

## PROFESSIONAL EXPERIENCE

- Legal extern to the U.S. Trustee Program, Region 5, Jackson, MS, 2010
- Judicial extern to the Honorable Neil P. Olack of the U.S. Bankruptcy Court for the Southern District of Mississippi, 2009

## EDUCATION AND CERTIFICATIONS

### EDUCATION

- Georgetown University Law Center, LL.M. (Taxation), *with distinction*, 2011, Certificate in Employee Benefits
- Mississippi College School of Law, J.D., *magna cum laude*, 2010, *Mississippi College Law Review*
- Jacksonville State University, B.A., *magna cum laude*, 2005

### BAR ADMISSIONS

- Alabama (Inactive)
- Georgia

### COURT ADMISSIONS

- Supreme Court of Alabama

### CLERKSHIPS

- Hon. Katharine Samson, U.S. Bankruptcy Court, Southern District of Mississippi, 2011-2013

## SPEAKING ENGAGEMENTS

- Moderator, Breakout Session, Women in the Boardroom, January 18, 2024.
- Speaker, "Avoiding Legal Pitfalls for a Successful Compensation Program in 2024," Bank Board Training Forum, September 12, 2023.
- Speaker, "Employee Benefit Plans – Hot Topics and What You Need to Know for 2023," Troutman Pepper, October 20, 2022.
- Speaker, "Avoiding Legal Pitfalls for a Successful Compensation Program," Bank Compensation and Talent Conference, November 9, 2021.
- Panelist, "New IRS Final Regulations for Hardship Distributions Under 401(k) and 403(b) Plans," Strafford webinar, December 12, 2019.
- Speaker, "Qualified Retirement Plans, Health and Welfare Plans, and Executive Compensation – What You

Need to Know for 2019," Troutman Sanders, September 2018.
- Speaker, "Employee Benefits for Nonprofits," Pro Bono Partnership of Atlanta, September 2017.

## PUBLICATIONS

- Podcast, "Mandatory Roth and Optional Super Catch-Up Contributions," *Employee Benefits and Executive Compensation Preparing For 2026*, December 4, 2025.
- Co-author, "DOL Advisory Opinion Confirms Post-Employment Vesting Provisions in RSUs Should Not Create an ERISA Pension Plan," *Financial Services Blog*, September 23, 2025.
- Co-author, "Navigating New and Anticipated Corrections Guidance for Retirement Plans," *Employee Benefit News*, May 13, 2024.
- Podcast, "Long-Term Part-Time Employee Eligibility Rules Now in Effect," *Employee Benefits and Executive Compensation Considerations in Mergers and Acquisitions* Podcast Series, March 20, 2024.
- Podcast, "Employee Benefits and Executive Compensation: Getting Ready for 2024 – Qualified Plans," *Employee Benefits and Executive Compensation* podcast miniseries, November 15, 2023.
- Podcast, "Navigating Noncompetes: A Comprehensive Guide – Part 1," *Hiring to Firing* Podcast, November 6, 2023.
- Co-author, "IRS Issues Guidance on EPCRS Expansion of Under SECURE Act 2.0," *Troutman Pepper*, June 22, 2023.
- Co-author, "U.S. Supreme Court Decision Potentially Opens Floodgates for ERISA Breach of Fiduciary Duty Claims," *Troutman Pepper*, January 28, 2022.
- Co-author, "ARPA COBRA Premium Assistance Expiration: A Friendly Reminder for Employers," *Troutman Pepper*, September 14, 2021.
- Co-author, "DOL Clarifies Deadlines for Lifetime Income Illustration Disclosure Requirements Which Take Effect on September 18, 2021," *Troutman Pepper*, August 9, 2021.
- Co-author, "IRS Modifies Employee Plans Compliance Resolution System," *Troutman Pepper*, July 20, 2021.
- Co-author, "IRS Issues Guidance on Federally Funded COBRA Premium Subsidy: FAQs and What You Need to Know," *Troutman Pepper*, May 26, 2021.
- Co-author, "COVID-19 Executive Compensation Q&As: Focus on Incentive Plans and Nonqualified Deferred Compensation," *Lexis Practice Advisor*, April 13, 2020.\
- Co-author, "Only Months Remain to Take Advantage of Less Expensive Pension Lump Sum Payouts in 2019," *Troutman Sanders*, September 6, 2019.
- Author, "President Trump's Affordable Care Act Executive Order – Business as Usual for Employer-Sponsored Group Health Plans," January 25, 2017.
- Author, "IRS Issues Guidance on Distribution Allocation Rules and Updated 402(f) Notice – Prompt Action Needed," December 1, 2014.
- Author, "IRS Issues Final Regulations Concerning the Use of Longevity Annuities in Defined Contribution Plans," July 9, 2014.
- Author, "Final Regulations Clarify the Tax Treatment of Payments by Qualified Retirement Plans for Accident or Health Insurance and Provide New Rules for Plans Purchasing Disability Insurance," June 3, 2014.
- Author, "IRS Releases Guidance Regarding Acceptance of Rollover Contributions," April 15, 2014.
- Author, "The IRS Sets Rules for Plan Sponsors to Implement 'Windsor' With Respect to Qualified Retirement Plans," April 9, 2014.
- Author, "IRA Rollovers Limited to One Per Year," April 4, 2014.
- Author, "Troutman Sanders Advises Brand Group on $452.9 Million Merger," March 29, 2018.

## MEDIA COMMENTARY

- Quoted, "Water Cooler Talk: Insights On Noncompetes From 'The Office'," *Law360*, January 11, 2024.
- Quoted, "Leveraging the New IRS 'Fix-It' Program for Better Retirement Plans," *SHRM*, September 26, 2023.