

Paul L. Porretta

Partner

New York

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OVERVIEW

Paul focuses his practice on a wide range of services related to 401(k) plans, pension plans, multiemployer plans, employee stock ownership plans (ESOPs), and ERISA issues. In addition, he has extensive experience with executive compensation, executive employment arrangements, equity-based compensation, health and welfare plans, and HIPAA compliance.

Paul advises clients on the design, implementation, and ongoing compliance of retirement and pension plans. His services include drafting plan documents, trust agreements and plan amendments; preparing IRS determination requests; advising on fiduciary, plan administration, funding and withdrawal liability issues; and correcting compliance failures through IRS and Department of Labor programs.

His executive compensation services include designing and drafting equity-based compensation plans, supplemental executive retirement plans (SERPs), and other forms of deferred compensation. He also advises clients on Internal Revenue Code section 409A and golden parachute issues and regularly negotiates and drafts executive employment and separation agreements.

In the areas of health and welfare plans, Paul advises clients on plan design and operation, COBRA issues, and cafeteria plan compliance. He also works with clients on documenting HIPAA privacy procedures and training.

Before joining the firm, Paul was an attorney with other national law firms, and was an assistant general counsel at MetLife.

REPRESENTATIVE MATTERS

- Designing and drafting 401(k) plans, profit-sharing plans and employee stock ownership plans (ESOPs) and related trust agreements and summary plan descriptions.
- Preparing investment policy statements and fiduciary guidelines for 401(k) plans and ESOPs.
- Advising 401(k) plan, multiemployer pension plan and ESOP fiduciary committees.
- Counseling 401(k) plan and ESOP sponsors on compliance issues; preparing IRS determination requests, Voluntary Compliance Program (VCP) submissions, and Department of Labor correction program filings.
- Representing 401(k) plan and ESOP sponsors in IRS and Department of Labor audits.

- Designing and drafting equity-based compensation plans, nonqualified deferred compensation plans, supplemental executive retirement plans (SERPs), and change-in-control agreements.
- Preparing and negotiating executive employment agreements and severance agreements.
- Advising companies on Internal Revenue Code section 409A and golden parachute issues.
- Advising companies on employee benefits and executive compensation issues in mergers and acquisitions.
- Advising companies on COBRA, HIPAA, and Affordable Care Act compliance.

AWARDS

- *Best Lawyers in America*®: Employee Benefits (ERISA) Law (2022-2026)

TOP AREAS OF FOCUS

- Employee Benefits + Executive Compensation
- Executive + Equity-Based Compensation
- Tax-Qualified Retirement Plans

ALL AREAS OF FOCUS

- Distressed Mergers + Acquisitions
- Employee Benefit Guidance on Workforce Transitions
- Employee Benefits + Executive Compensation
- Executive + Equity-Based Compensation
- Governmental Audits, Benefit Claims + ERISA Litigation
- Plan Governance, Investment + Fiduciary Issues
- Tax-Qualified Retirement Plans

PROFESSIONAL/COMMUNITY INVOLVEMENT

- Member, Board of Trustees, New York Law School
- Member, National Board of Directors, Marquette University Alumni Association (2009–2013)
- Member, Employee Benefits and Executive Compensation Committee, New York City Bar Association

EDUCATION AND CERTIFICATIONS

EDUCATION

- New York University School of Law, LL.M., 2001
- New York Law School, J.D., 1995
- Fordham University, M.B.A.
- Marquette University, B.A.

BAR ADMISSIONS

- New York

COURT ADMISSIONS

- Supreme Court of the United States

SPEAKING ENGAGEMENTS

- Speaker, "ESOP Plan Design and Formation," Lawline, January 14, 2025.
- Speaker, "401(k) Plan Issues for Small and Midsize Companies," MidAtlantic Employers Association, December 1, 2024.
- Speaker, "Multiemployer Pension Plan Withdrawal Liability: Employers Beware and Be Prepared," Lawline, November 28, 2023.

PUBLICATIONS

- "Multiemployer Plans in Mergers and Acquisitions," *Lexis Practical Guidance*, August 2024.
- Co-host, "Multiemployer Pension Plans in Mergers and Acquisitions," *Employee Benefits and Executive Compensation Considerations in Mergers and Acquisitions* Podcast Series, May 2, 2024.
- Author and Presenter, "Blocking and Tackling for Fiduciaries and Tax-Qualified Defined Contribution Plans," *Winning the Game of Distressed M&A: The Playbook*, June 2, 2023.
- Author and Presenter, "ERISA Plans: Positioning Your Team for the Win," *Winning the Game of Distressed M&A: The Playbook*, May 8, 2023.
- Author and Presenter, "Keeping Your Eye on the Ball: ERISA and Executive Compensation Issues," *Winning the Game of Distressed M&A: The Playbook*, March 24, 2023.

MEDIA COMMENTARY

- Quoted, "What Is the Rule of 55 and How Does It Work?," *Bankrate*, September 15, 2021.
- Quoted, "How to Withdraw Money from a 401(k) Early," *Bankrate*, June 3, 2021.
- Quoted, "Employers Are Making It Easier for Workers to Tap Their 401(k) Savings," *CNBC*, May 26, 2020.
- Quoted, "Coronavirus Relief Bill Would Relax Rules on Retirement Savings," *CNBC*, March 25, 2020.
- Quoted, "Congress May Let You Take \$100,000 From Your 401(k). What You Should Know," *CNBC*, March 23, 2020.