



## Mark L. Stember

PARTNER

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### Services

Employee Benefits; Health & Welfare Plans; Retirement Income Plans; Executive Compensation; Cybersecurity, Privacy & Data Governance; Tax; Labor & Employment; Health & Welfare Plans

### Industries

Telecommunications; Hospitality & Gaming

Mark Stember concentrates his practice on counseling clients on the tax and related aspects of health and welfare benefits, flexible compensation, fringe benefits, executive compensation, and qualified retirement plans. Mr. Stember has counseled both private and public clients regarding health and welfare plans, cafeteria plans, fringe benefit plans, such as adoption assistance and tuition reimbursement, nonqualified deferred compensation plans, executive split dollar life insurance plans and section 401(k) and pension plans.

Mr. Stember is the leader of the Health and Welfare and Employee Benefits Legal Alert teams. He is a frequent writer and presenter on employee benefits matters. He is also a member of the Employer's Council for Flexible Compensation Technical Advisory Council, and the Contributing Editor for the *Employer's Guide to the Health Insurance Portability and Accountability Act*. As such, Mr. Stember writes quarterly updates for the *ECFC Flex Reporter* and the *Employer's Guide to HIPAA*.

Mr. Stember is chair of the Health and Welfare Plan Design and Funding subcommittee for the Employee Benefits Committee of the American Bar Association Section of Taxation, and co-chair of the JCEB Health and Welfare Benefit Plans National Institute. In his role as chair, Mr. Stember has led discussions and has presented at the Section of Taxation and JCEB meetings on all issues affecting health and welfare plans, including the Affordable Care Act, HIPAA privacy and security, ERISA disclosure issues, COBRA issues, health reimbursement arrangements (HRAs), and health savings accounts (HSAs) He was also a significant contributor to the Workgroup for Electronic Data Interchange (WEDI) — HIPAA Privacy and Security Employer Workgroup, and he authored portions of WEDI's white paper on HIPAA Issues for Employers. Mr. Stember was also the only law firm presenter at the first Department of Health and Human Services national symposium on the HIPAA privacy rules that was held in 2003 in New Orleans.

In 2009 Mr. Stember was appointed by the Departments of Health and Human Services and Labor as the only law firm co-chair of the CHIP Employer Coverage Coordination Working Group.

Mr. Stember was recognized in *The Best Lawyers in America*® in 2018 and the eight years immediately preceding for Employee Benefits Law and ERISA Litigation. He was listed in 2017 and the seven years immediately preceding as a Washington D.C. "Super Lawyer" in Employee Benefits Law by *Super Lawyers* magazine.

### Experience Highlights

#### Employee benefits matters for Equifax Inc.

Represented Equifax Inc., one of the United States' largest credit reporting agencies, in connection with the employee benefit aspects of a corporate spin-off and a subsequent corporate acquisition.

#### Employee benefits for a national beverage manufacturer regarding acquisition of two publicly trading companies

Counseled a national beverage manufacturer in the employee benefits matters regarding its acquisition of two publicly traded corporation in an integrated transaction.

#### Regulatory health plan compliance for several publicly traded corporations

Represented several publicly traded corporations in designing and implementing Affordable Care Act and HIPAA privacy and security operational and documentary compliance for its group health plans.

#### Restructuring employee health programs for a national corporation

Represented a national corporation in restructuring its employee and retiree health programs, including funding mechanisms through a VEBA and a Section 401(h) account.

#### ERISA plans for several publicly traded food and beverage manufacturers

Represented several publicly traded food and beverage manufacturers in designing and implementing an integrated plan document and summary plan description drafting strategy to reduce legal and litigation risk of ERISA plans.

#### Represented a national beverage manufacturer in a USERRA audit

Successfully represented a national beverage manufacturer in a DOL USERRA audit of its defined benefit pension plan.

#### Executive compensation and employee benefit matters for major North American bottled water company

Redesigned the executive deferral plans, split dollar life insurance plans and executive health plans for a major North American bottled water company for Code Section 409A compliance.

#### Health and welfare employee benefits for a national beverage manufacturer

Represented a national beverage manufacturer in conducting an ERISA, COBRA and HIPAA privacy and security compliance audit of its health and welfare benefit programs.

#### IRS employee plans compliance audit for a *Fortune* 500 fast food operator

Represented a *Fortune* 500 fast food operator regarding the successful IRS employee plans compliance audit of its 401(k) and pension plans.

#### Electronic health records for a national beverage manufacturer

Assisted a national beverage manufacturer in designing electronic health records for its employee group health plan.

#### Obtaining various regulatory exemptions for a benefits payment services company

Represented a benefits payment services company in obtaining exemptions from the HIPAA electronic transaction rule.

#### Obtained regulatory exemptions for Employee Assistance Programs and wellness benefits

Represented several *Fortune* 500 companies in obtaining exemptions for EAPs and wellness benefits from the research fee and Form W-2 healthcare reporting requirement under the Affordable Care Act.

\*Experience gained by attorney prior to joining Kilpatrick Townsend

## Publications, Articles and Speaking Engagements

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#### Compliance Issues For Employer Sponsored Wellness Programs

36th Employers Council on Flexible Compensation (ECFC) Annual Conference, March 10, 2017

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#### The Audit Trilogy Part II: Preparing For and Surviving a Health and Welfare Audit

American Bar Association CLE Webinar, April 19, 2016

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#### Rapid Response Panel

35th Employers Council on Flexible Compensation Annual Conference, March 16, 2016

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#### Fiduciary Issues and Data Privacy

Online, February 18, 2016

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#### The Affordable Care Act — Past, Present and Future

Health and Welfare Benefit Plans National Institute, October 20, 2015

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#### HIPAA Omnibus Rules and Data Privacy Challenges for Plan Sponsors

Health and Welfare Benefit Plans National Institute, October 20, 2015

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#### Fiduciary Issues and Data Privacy

Health and Welfare Benefit Plans National Institute, October 20, 2015

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**Tri-Agency Perspectives on Health Care Reform**  
Health and Welfare Benefit Plans National Institute, October 19, 2015

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**The Nuts and Bolts: An Introduction to ERISA Welfare Plans**  
Health and Welfare Benefit Plans National Institute, October 19, 2015

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**EEOC Guidance/Wellness**  
28th Annual Flexible Benefit Administrator Symposium, August 05, 2015

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**Health and Welfare Update and Planning for 2014**  
Kilpatrick Townsend & Stockton LLP, June 19, 2013

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**KT Compares the PCOR and Reinsurance Fees. KT breaks through the confusion between the IRS PCOR Fee and the HHS Transitional Reinsurance Fee with this easy to understand and use comparison chart.**  
Kilpatrick Townsend & Stockton LLP, March 19, 2013

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**Kilpatrick Townsend files comments with IRS suggesting improvements to the employer penalty proposed regulations**  
Kilpatrick Townsend & Stockton LLP, March 18, 2013

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**Kilpatrick Townsend Health and Welfare Team Files HHS Comments Concerning the Application of the Reinsurance Fee to Employer Group Health Plans**  
Kilpatrick Townsend & Stockton LLP, October 04, 2012

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**Mandatory Fees on Health Plan Insurers and Plan Sponsors to Fund Research**  
Employee Relations Law Journal, September 21, 2012

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**KT Health and Welfare Team Files Comments with IRS to Exempt Stand-Alone HRAs from the PCOR Trust Fee**  
Kilpatrick Townsend & Stockton LLP, July 13, 2012

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**What's Next for Employers After Supreme Court Upholds Affordable Care Act**  
Corporate Compliance Insights, July 09, 2012

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**Kilpatrick Townsend Health and Welfare Team Submits IRS Comments on how to make stand-alone HRAs work under the minimum value requirements of the Affordable Care Act**  
Kilpatrick Townsend & Stockton LLP, June 11, 2012

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**Welfare Benefits Design, Funding and Regulation Update**  
Section of Taxation Meeting, May 06, 2011

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**The Kilpatrick Stockton LLP Employee Benefits Team Submits Comments to the Department of Labor Regarding the Interim Final GINA Rules**  
Kilpatrick Stockton LLP, January 05, 2010

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**Comments to the Interim Final GINA Rules**  
Kilpatrick Stockton LLP, January 04, 2010

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**The New Interim Final Rule on GINA Protections, the Mental Health Parity Law and CHIPRA**  
JCEB Health and Welfare Benefit Plans National Institute, October 01, 2009

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**2009 Health and Welfare Planning: What Should Employers Be Doing Now?**  
Teleconference, May 14, 2008

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**State Health Benefit Requirements - What's a Multi-State Employer to Do?**  
JCEB Health and Welfare Benefit Plans National Institute, March 06, 2008

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**Legacy Legislation in a Republican Washington: Forecasting Federal Legislation in the 109th Congress**  
The ECFC Flex Reporter, December 15, 2004

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**DOL Finalizes COBRA Regulations**  
BNA Tax Management Compensation Planning Journal, December 03, 2004

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IRS Proposes to Eliminate Advance Notice Requirement of Anti-Cutback Rule  
Journal of Pension Benefits, December 01, 2004

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Supreme Court Addresses Preemption of State Patient's Rights Laws  
The ECFC Flex Reporter, September 15, 2004

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HSAs and the HIPAA Privacy Rules: The Clash of the Acronyms  
The ECFC Flex Reporter, March 15, 2004

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Defined Contribution Health Plans — A Green Light for Health Reimbursement Arrangements  
Journal of Pension Benefits, December 01, 2003

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The Rise of Pay or Play California Health Coverage  
The ECFC Flex Reporter, December 01, 2003

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DOL Issues Proposed COBRA Regulations  
The ECFC Flex Reporter, June 15, 2003

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401(k) and the Payment of Disability Benefits  
401(k) Advisor, February 15, 2003

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Tick, Tock of the HIPAA Privacy Clock — The Countdown Marches on for Group Health Plans  
The ECFC Flex Reporter, December 15, 2002

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Disability Distributions Under Retirement Plans  
Journal of Pension Benefits, October 15, 2002

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Final HIPAA Privacy Regulation Modifications: Highlights for Group Health Plans and Plan Sponsors  
The ECFC Flex Reporter, September 15, 2002

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Unraveling the Mystery — Code 401(h) Accounts — Part II  
Journal of Pension Benefits, July 15, 2002

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Unraveling the Mystery — Code 401(h) Accounts — Part I  
Journal of Pension Benefits, April 15, 2002

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Emerging Flexible Benefit Opportunities  
Benefits Law Journal, December 15, 2001

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EGTRRA's Impact on FSAs - A Mixed Bag (At Best)  
The ECFC Flex Reporter, September 30, 2001

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Exploring the Meaning of Divorce as a COBRA Qualifying Event  
Benefits Law Journal, July 15, 2001

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Exploring Long-Term Disability Insurance as a Defined Contribution Plan Investment  
Journal of Pension Benefits, July 15, 2001

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## **Professional & Community Activities**

American College of Employee Benefits Counsel, Fellow

Bloomberg BNA Compensation Planning Advisory Board, Member

Employer's Council for Flexible Compensation, Technical Advisory Council, Member

JCEB Health and Welfare Benefit Plan National Institute, Co-Chair

American Bar Association, Section of Taxation, Employee Benefits Committee, Health and Welfare Plan Design and Funding Subcommittee, Co-Chair (2002-2012)

Departments of Health and Human Services and Labor, CHIP Employer Coverage Coordination Working Group, Co-Chair (2009-2010)

*Employer's Guide to the Health Insurance Portability and Accountability Act*, Contributing Editor (2010-2014)

*Journal of Pension Benefits*, Editorial Advisor (2005-2011)

### **Education**

Hamline University School of Law, J.D. (1995)

University of Missouri, LL.M., Taxation (1996)

St. Cloud State University, B.S., Accounting (1991)  
*magna cum laude*

### **Bar Admissions**

District of Columbia (2002)

Iowa (1996)

### **Admissions**

U.S. Tax Court