

## Christopher A. McMican

### SERVICE AREAS

#### Business

- Corporate, Securities + Commercial Transactions
- Employee Benefits
- Employment + Labor
  - Employment Benefits + Tax Issues

#### Litigation + Trial

- Probate + Trust Administration
- Employment + Labor
  - Employment Benefits + Tax Issues

#### Governments + Nonprofits

- Sustainable Government Initiative
- Employee Benefits
- Employment + Labor
  - Employment Benefits + Tax Issues

#### Individuals + Families

- Probate + Trust Administration

### EDUCATION

- University of Florida College of Law, LL.M. Taxation
- University of Detroit Mercy School of Law, J.D.
- University of Detroit Mercy, M.B.A., B.S.

### BAR ADMISSIONS

- Illinois
- Michigan

### COURT ADMISSIONS

U.S. District Court



### Principal

#### Detroit

150 West Jefferson  
Suite 2500  
Detroit, Michigan  
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#### Chicago

225 W. Washington  
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As a member of Miller Canfield's Employee Benefits group and widely recognized as one of the top attorneys in his field, Christopher A. McMican has extensive expertise in virtually all aspects of employee benefits law. His specialty is assisting and advising employers with such issues as ERISA compliance, retirement plans, health and welfare plans, executive compensation, fiduciary matters, phantom and equity plans, stock options and all elements of the compensation package as well as estate planning and corporate matters. Preparing plans and working with clients on documentary compliance and plan operational issues, including those related to changes in the law, are central to his practice. He has led the employee benefits portion of a \$550 million international corporate transaction as well as various other transactions allowing clients to acquire or divest entities and divisions.

*"I focus on translating complex information into plain English for my clients."*

Christopher A. McMican

Specifically, Christopher provides counsel in the following areas:

### Qualified Retirement Plans

His practice includes implementing, drafting, amending and providing advice with respect to all sizes and types of plans, including defined contribution plans (such as 401(k) plans, "safe harbor" plans, cross-tested, age-weighted and integrated profit sharing plans), traditional defined benefit pension plans, money purchase pension plans and cash balance plans. He has represented many types of sponsors (including manufacturing companies, service providers, not-for-profits, etc.) both large and small, as well as "orphan" plans with no plan sponsor.

## Christopher A. McMican

- Northern District of Illinois  
U.S. Tax Court

He advises regarding employee stock ownership plans (ESOPs), fiduciary liability issues (including matters involving the Voluntary Correction Program), investment policies, prohibited transactions and similar issues driven by the Employee Retirement Income Security Act of 1974 (ERISA) and Forms 5500 (including the Delinquent Filer Voluntary Compliance Program), plan audits, and other governmental compliance issues.

He is versed in both the self-correction and the IRS-approved methods of voluntary correction and assists numerous plan sponsors that have discovered defects in their qualified plans. This representation predominantly involves the identification and reparation of plan defects (both operation and document issues) and the restoration of the "qualified" status of those plans.

### **Standard Compliance Issues**

Christopher spends significant time with discrimination testing of retirement plans, controlled group issues, the IRS determination letter process and qualified domestic relations orders. He is often involved in corporate transactions (e.g., mergers and acquisitions impacted by employee benefits and indemnification issues) and multi-employers withdrawal liability cases with respect to union-sponsored plans. Christopher is experienced in many other areas related to qualified retirement plans such as professional employer organizations, minimum required distributions, individual retirement accounts, the recovery of funds by a plan, claims for retirement plan benefits, and litigation and settlement negotiation involving ERISA matters.

### **Frozen and Terminated Plans**

His practice includes the termination of defined contribution plans and the termination of defined benefit pension plans covered by the procedures set forth by Title IV of ERISA and required by the Pension Benefit Guaranty Corporation. Christopher has successfully terminated defunct plans and located lost participants as well as representing plan sponsors who have abandoned the termination process. He has experience with underfunded defined benefit pension plans, benefit waivers and overfunded plans with the corresponding implementation of qualified replacement plans.

### **Executive Compensation**

## Christopher A. McMican

Christopher regularly counsels clients regarding various elements of the pay package and represents employees and employers in matters involving severance and executive compensation arrangements, stock options, nonqualified salary deferrals (including “shadow” or “mirror” plans that function with qualified plans), incentive plans, phantom stock plans, employment agreements, change in control agreements, supplemental executive retirement plans, top-hat plans, rabbi trusts and plans utilizing life insurance. His representation includes Code §457 plans for tax-exempt organizations as well as Code §83 plans involving equity compensation for services rendered and includes the consequences of Internal Revenue Code § 409A and its significant impact on many nonqualified deferred compensation arrangements.

### **Health and Welfare Plans**

Christopher’s practice involves medical plans (including insured plans and self-insured plans with stop-loss coverage), “wrap” plans, cafeteria plans, VEBA’s, wellness plans, HRAs, HSAs, MEWAs, flexible spending arrangements, dependent care assistance plans and the Consolidated Omnibus Budget Reconciliation Act (COBRA). He also provides advice with respect to the Health Insurance Portability and Accountability Act (HIPAA) including matters requiring the consummation of administrative services contracts and “business associate” agreements.

Christopher is experienced with health and welfare claims against a plan from both the plan and the participant perspective (such as claims for medical benefits and claims for COBRA rights). This aspect of the practice can also involve employment issues and post-administrative appeals involving arbitration.

### **PROFESSIONAL ACTIVITIES**

- American Bar Association, Tax Section, Employee Benefits Committee
- State Bar of Michigan, Taxation Section
- Oakland County Bar Association, Employee Benefits Committee, Vice Chair, 2006-2007
- The ESOP Association
- The National Association of Health Underwriters
- The Michigan Employee Benefits Conference
- The Detroit Deferred Compensation Group

## Christopher A. McMican

### HONORS + AWARDS

- Best Lawyers in America, Employee Benefits Law, 2007-present
- Chambers USA: America's Leading Lawyers for Business, Employee Benefits & Executive Compensation, 2007-present
- Michigan Super Lawyers, Employee Benefits/ERISA, 2009-present
- DBusiness Magazine, Top Lawyers, Employee Benefits 2010

### CIVIC, CULTURAL + SOCIAL ACTIVITIES

- University of Florida Alumni Association
- Motown Gator Club, Former Member
- Beta Gamma Sigma, Beta Alpha Psi, Alpha Sigma Nu, Former Member

### TEACHING EXPERIENCE

- Walsh College, Substitute Teacher for Employee Benefits

### PUBLICATIONS

"\$500,000,000 Best Practices Incentives Proposed by Governor Snyder," (Co-Author), E-Alert, February 25, 2011

"President Signs Sweeping New Health Care Reform Law," (Co-Author), E-Alert, March 25, 2010

"Further Guidance Issued on COBRA and Stimulus Act Requirements - Ladies and Gentlemen, Start Your Forms," E-Alert, March 23, 2009

"Stimulus Act Requires Immediate Attention to COBRA Administration," E-Alert, February 20, 2009

"Restatement Required to Preserve Tax-Qualified Status of Retirement Plans," E-Alert January 14, 2009

"Compliance Deadlines Approaching for 401(k) Plans," E-Alert December 5, 2006

"It's almost here...The Deferred Compensation Deadline Is Coming Soon," Hot Points, Fall 2008

"Compliance deadline extended for nonqualified deferred compensation arrangements? Maybe NOT." Hot Points, Winter 2007

"A Conversation with Christopher McMican," Crain's Detroit Business, October 22, 2007 (Section 409A/Deferred Compensation Issues)

## Christopher A. McMican

"Don't be Fooled by 'Extended' Deferred Compensation Deadline,"  
Midwest In-House, October 2007

"Compliance Deadlines Approaching for 401(k) Plans," Client Alert,  
December 2006

"IRS Publishes Updated Guidance Regarding Nonqualified Deferred  
Compensation Compliance Dates," Miller Canfield Client Alert,  
November 2006

"Congress Protects Pensions, Pushes Away from DB Plans,"  
(Contributing Interviewee), by Rod Kackley, MiBiz, Financial News,  
October 2006

"COBRA Responsibilities for Employers – Does Your Group Health  
Plan Qualify for the Small Employer Exception?" Paper prepared for  
Legal Symposium, May 2006

"The Michigan Public Contributions Credit: Why a Double Standard?"  
Michigan Tax Lawyer, First Quarter 1996

### **SPEECHES**

"Capturing 401(k) Plans - Set Yourself Apart with Your Knowledge,"  
MetLife Insurance, Chelsea, Michigan, July 26, 2010

"Current Legislative Developments, Strategies, and Contribution,  
Funding and Budget Constraints for Teacher Pension Plans,"  
Michigan School Business Officials, Grand Rapids, Michigan, April 29,  
2010

"A New Era in Health Plan Compliance," Metro Detroit Association of  
Health Underwriters, Southfield, Michigan, April 22, 2010

"Hiring Foreign Nationals: What You Need To Know," Miller Canfield,  
Southfield, Michigan, May 12, 2009

"ERISA and Executive Compensation Update for Financial  
Professionals," Before the Bell Breakfast Forum, November 2008

"Reductions in Force, Settlements, Severance Packages and Other  
Labor Issues: How Do the New Deferred Compensation Regulations  
Apply?" MCPS East Side Labor Group Seminar, October 2008

"Code Section 409A and Deferred Compensation for Teacher Pay,"  
MCPS in-house seminar, June 2008

"Employee Benefits Issues in Mergers and Acquisitions," Miller Canfield Labor Group Seminar, April 2008

"Code Section 409A Deferred Compensation: Penalties and Related Issues for Human Resources Matters," Miller Canfield Labor Group Seminar, October 2007

"Nonqualified Deferred Compensation, 409A and Related Issues for Employment Claims and Settlements," MCPS in-house seminar, August 2007

"Tax-Exempt Organizations in Michigan," Lorman Seminar, Detroit, Michigan, February 2007

"COBRA: An Overview, A Case Law Update and Negotiating an Agreement for Services with the COBRA Third Party Administrator," Paper, materials and presentation for Legal Employment Law Seminar, November 2006

"Dramatic Changes to Deferred Compensation, Severance and Other Pay Plans," Regional C.P.A. and Consulting firm, January 2006

"Dramatic Changes to Deferred Compensation, Severance and Other Pay Plans," Association for Corporate Growth, December 2005

"Nonqualified Deferred Compensation and Code §409A," Paper and presentation at Legal Symposium, October 2005 (certified credits given to accountants for continuing education requirements)

"Nonqualified Deferred Compensation and the Effects of Code §409A," Paper and presentation for Michigan Association of Certified Public Accountants, September 2005

"Fixing Defects in Your Retirement Plan: How to Take It to the Repair Shop," Paper and presentation at Legal Symposium, October 2004 (certified credits given to accountants for continuing education requirements)

"Mitigating Fiduciary Liability...How to Do It," Northwestern Mutual Insurance Company, September 2004

"HIPAA Compliance for Small Health Plans," Oakland County Bar Association, March 2004

"Health Plans Made to Order: Cafeteria Plans, Health Reimbursement Arrangements, Health Savings Accounts, HIPAA and More," Paper and presentation to employment and human resources individuals at

Legal Symposium, February 2004

"HIPAA Compliance – The Privacy Requirements for Health Plans,"  
Paper and presentation at Legal Symposium, October 2003 (certified  
credits given to accountants for continuing education requirements)

"HIPAA Privacy," Underhill Insurance Agency, October 2003

"Cross-Testing Under Code §401(a)(4)," Internal Revenue Service,  
April 2003

**SEMINARS + EVENTS**

- Employee Benefit Plan Update
- Annual Labor and Employment Law Seminar
- COBRA, HIPAA and ARRA – A Roadmap for Health Plan Acronyms
- Managing COBRA - Is Your Health Plan Compliant
- Hiring Foreign Nationals: What You Need to Know