

Cornell University
ILR School
Labor and Employment Law Program

**ACA and Wellness:
At Odds With EEO Laws and Collective Bargaining Agreements?**

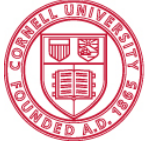
Friday, February 28, 2014

Susan E. Bernstein

Susan E. Bernstein is a special counsel in the New York office of Schulte Roth & Zabel, where her practice focuses on ERISA and other legal areas affecting single and multiemployer benefit plans, including pensions and retirement savings, health and welfare plans. She regularly advises clients with the ongoing administration and regulatory compliance of qualified and nonqualified plans, including plan design and drafting; monitoring and complying with new legislation; communicating with employees and counseling on issues concerning the merger or termination of benefit plans. She also has experience with health and welfare benefit plan issues, including retiree medical programs, the ACA, COBRA and HIPAA compliance issues and ERISA reporting and disclosure requirements. She represents employers and executives in the negotiation of employment agreements and counsels employers on all aspects of executive compensation including compliance with 409A. Susan represents tax-exempt clients with respect to all aspects of employee benefit matters including 403(b) plans, 457(b) plans, 457(f) plans and intermediate sanction issues. Her practice also includes preparing and negotiating with the IRS, DOL and PBGC including filing numerous submissions to the IRS and DOL through their voluntary correction programs.

Susan is a member of the Employee Benefits Committee of the New York State Bar Association. She is also a member of the New York City Bar Association and speaks and writes regularly on a variety of employee benefit topics. Susan has written and co-authored a number of articles on employee benefit issues including articles in *Compensation and Benefits Review* and *Employee Benefit News*.

Susan received a B.A. from the University of Pennsylvania and a J.D. from the Benjamin N. Cardozo School of Law, where she was an editor of the *Cardozo Law Review*.



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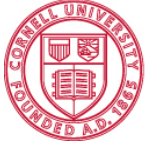
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Mark Brossman

Mark E. Brossman is a partner in the New York office and co-head of the Employment & Employee Benefits Group at Schulte Roth & Zabel LLP. His areas of concentration include all aspects of ERISA, employment discrimination, labor relations, and related litigation. Mark is well known for his expertise in education law and representation of educational institutions including independent schools, colleges, universities, professional training programs and education-related associations. He has advised educational institutions since graduating from law school and today provides counsel to over 50 institutions. Mark is a frequent public speaker and author. His practice also includes serving as counsel to many large multi-employer and single-employer employee benefit plans; health care institutions, including nursing homes and home care employers; and a wide variety of other clients in industries ranging from banks and financial institutions to textile and furniture to magazine publishing and transportation. He has served as an instructor in the Columbia University Teacher's College and as a lecturer in the Cornell University ILR School's Labor Relations Studies Program.

Mark is listed in *The Best Lawyers in America* and *New York Super Lawyers* and was recognized by both *Human Resource Executive* and *Lawdragon* as one of the 100 most powerful employment attorneys in America and one of the top 10 in ERISA law. Mark received the Cornell University School of Industrial and Labor Relations' prestigious Judge William B. Groat Alumni Award (for achievement in the field of industrial relations), the Emerald Isle Immigration Center's Robert Briscoe Award, membership in the Academy of Employee Benefit Authors, and the Lawyers Alliance for New York's Cornerstone Award (for outstanding pro bono service to New York nonprofit organizations), in addition to being the first recipient of LANY's Pro Bono Leadership Award. He also is active in several not-for-profit organizations and serves on the Board of Directors of the Council of Senior Centers and Services of New York City Inc., the Board of Directors of New York University School of Law's Center for Labor & Employment Law, the Advisory Council of Cornell University ILR School and the Board of Trustees of Bard College. Mark earned his B.S. in Industrial and Labor Relations from Cornell University in 1975, his J.D. from New York University School of Law in 1978 and an LL.M. in Labor Law from the same institution in 1981.



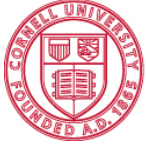
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Elizabeth Grossman

Elizabeth Grossman is Director of Protection and Advocacy for Individual Rights (PAIR) and Protection and Advocacy for Beneficiaries of Social Security (PABSS) for Disability Rights New York. Previously, she worked for twenty years in the New York District Office of the United States Equal Employment Opportunity Commission, including as Regional Attorney, where she oversaw the litigation program in New York, northern New Jersey and New England. Ms. Grossman makes frequent presentations to the public in a variety of contexts. She has served as a volunteer community mediator with both the Institute for Mediation and Conflict Resolution and the Brooklyn Mediation Center, affiliated with Victim's Services Association. Ms. Grossman was named by the Wall Street Journal as one of fifty "Women to Watch" in 2004 and was awarded a 2005 Service to America Medal by the Partnership for Public Service and the Atlantic Media Company. She attended the University of Michigan and the University of Michigan Law School.



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Tom Kennedy

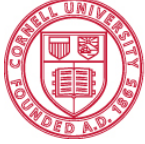
Tom Kennedy, of Kennedy, Jennik & Murray, PC, graduated from New York University Law School in 1974 where he had a fellowship with the Center for International Relations and served on the Board of the International Journal of Law and Politics. Since leaving the NLRB in 1976, where he was recipient of the Outstanding Attorney Award in 1975, he has devoted his practice to representing labor unions and their affiliated benefit funds and other institutions. He currently represents national labor unions including IUE-CWA, the Jockeys Guild, the Committee of Interns and Residents, Workers United and the Association of Flight Attendants, and local and regional affiliates of the Teamsters, GCC/IBT, the Ironworkers and AFSCME.

Tom has argued before the United States Supreme Court, the New York State Court of Appeals, the Second, Third, Ninth and District of Columbia Courts of Appeals and numerous District Courts. He has recovered hundreds of millions of dollars for workers who have been deprived of their rights and additional millions of dollars for multi-employer benefit funds that have been deprived of rightful contributions. Tom represented unions and employees in many important bankruptcy cases including General Motors, Delphi, Visteon and American Airlines.

His precedential cases include *In re Visteon*, 612 F. 3d 210 (3rd Cir., 2010), (achieving a more just interpretation of Section 1114 of the Bankruptcy Code); *LoPresti v Terwilliger*, 126 F.3d 34 (2nd Cir. 1997) (defining corporate officers as fiduciaries under ERISA); and *IUE-CWA Pension v Herrmann*, 9 F.3d 1049 (2nd Cir. 1993) (applying the MPPAA evade and avoid rules to corporate officers).

Tom has lectured on labor law at the NYU Labor Symposium, Brooklyn Law School and Cardozo Law School as well as many union conventions.

He received the Peggy Browning Award in 2007 for his work on behalf of unions and their members.



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Joan Smyth

Joan Smyth is a Partner in Mercer Health & Benefits and is a Relationship Manager for clients in New York City and Long Island, and is their Mid-Market Total Health Management Specialist.

Joan has over 20 years experience in the industry, working with mid-sized employers in the design and implementation of benefit programs. Her focus is on strategy, long term solutions and enhancement of overall benefit offerings, as well as cost control through total health management, and she is a frequent speaker at industry events. She has also been quoted in The New York Times, Wall Street Journal, and Employee Benefit News, and has appeared on local cable TV news.

Before joining the firm in 1993, Joan was vice president at a regional brokerage firm, and was previously with The Equitable Life (now AXA).

She also has experience in the interior design, fashion and electronics industries.

Joan graduated from The Queen's University in Belfast, Northern Ireland, with honors in English Literature and Language.