

Mark A. Lotito, Ph.D.

Senior Counsel

Overview

Mark assists clients in a range of employee benefits matters, including legal compliance, transaction due diligence, and litigation. He brings a multifaceted, big picture outlook to helping clients unravel the challenges of complex benefits-related problems.

He has established a strong track record in achieving successful outcomes for clients confronted by employee benefits litigation and arbitration claims. Mark has also successfully litigated patent and trade secret litigation claims, as well as employment non-compete claims.

Mark's practice focus includes:

- Plan compliance under the Internal Revenue Code and ERISA
- Drafting qualified and non-qualified employee benefit plans
- Preparing participant communications such as summary plan descriptions
- Correcting plan failures in accordance with IRS Employee Plans Compliance Resolution System (EPCRS) procedures
- Addressing multiemployer plan and withdrawal liability issues
- Analyzing worker classification and plan eligibility
- Preparing for Affordable Care Act (ACA) compliance
- Resolving both IRS and Department of Labor audits of qualified retirement plans
- Handling the employee benefits aspects of mergers and acquisitions

Experience

Notable examples Mark's representations include:

- Resolving an IRS audit of a financial services client's retirement plan
- Defending a retirement plan services company against multi-party litigation claims regarding the administration of retirement plan tax compliance



malotito@michaelbest.com

Milwaukee

T. 414.223.2507

Legal Assistant

Lynda Moser

lemoser@michaelbest.com

T. 414.347.4765

Industries

Higher Education

Practices

Employee Benefits & Executive
Compensation
Employment Litigation
Labor & Employment Relations
Unfair Competition & Trade Secrets

- Successfully resolving a U.S. Department of Labor investigation into a mechanical contracting client's retirement plan
- Advising a manufacturing client on an internal benefits consolidation involving the merger of controlled group retirement plans
- Successfully resolving the arbitration of a union pension plan liability matter on behalf of a food processing company client
- Counseling multiple buyer-side and seller-side corporate clients on employee benefits transaction due diligence
- Obtaining IRS correction approval of qualified retirement plan compliance failures for multiple companies

Professional Activities

- Member, American Bar Association

Education

- University of Michigan, Doctor of Philosophy (Ph.D.), 2011; History
- Cornell Law School, Master of Laws (LL.M.), 2010; International and Comparative Law
- Cornell Law School, Juris Doctor (J.D.), 2010
- University of Michigan, Master of Arts (M.A.), 2008; History
- University of London, Master of Arts (M.A.), with distinction, 2003; Warburg Institute
- Martin Luther College, Bachelor of Arts (B.A.), with high distinction, 2000; Liberal Arts

Admissions

- Wisconsin
- United States Supreme Court
- United States Court of Appeals, Federal Circuit
- United States Court of Appeals, Seventh Circuit
- United States District Court, Eastern District of Wisconsin
- United States District Court, Western District of Wisconsin

Languages

- German

Community Involvement

- Member, Milwaukee Art Museum



Related News

PUBLICATION

April 2, 2020

Suspending Employer 401(k) Contributions

PUBLICATION

March 29, 2020

Michael Best Q&A on Using the Employee Retention Credit under the CARES Act

PUBLICATION

March 19, 2020

Tax Credits under the Families First Coronavirus Response Act

PUBLICATION

March 10, 2020

Final Reminder: 403(b) Plan Remedial Amendment Period Ends March 31, 2020

EVENT

May 21, 2019

31st Annual Labor & Employment Relations Law Seminar