

## Michael T. Brittingham

### MEMBER

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### Practices

Tax Law  
ERISA and Employee Benefits  
Employment & Labor Law  
Employee Compensation and Benefits  
Employee Benefits Litigation

### Education

- University of Florida, LL.M., 1991
- University of South Carolina, J.D., 1990
- University of North Carolina, B.S., 1984

### Admissions

- South Carolina

Mike Brittingham is a Certified Tax Specialist who clients turn to for advice about things like employee benefits, retirement plans, and executive compensation. Mike prides himself on finding practical solutions for clients' difficult issues.

Before entering the private practice of law, Mike worked in public accounting as a Certified Public Accountant. Mike returned to law school where he earned his law degree and his masters in tax law. Mike is a certified tax law specialist.

### Recognitions

- Martindale-Hubbell "AV" Preeminent Peer Review Rated
- Listed in *Best Lawyers in America* for Employee Benefits (ERISA) Law and Litigation (ERISA), Since 2007
- Listed in *Best Lawyers in America* for "Lawyer of the Year" - Employee Benefits (ERISA) Law in Columbia in 2014 and 2019 and Employee Benefits (ERISA) Law in 2016
- Certified Tax Specialist
- Certified Public Accountant
- Certified Legal Lean Sigma® and Project Management Yellow Belt

## Community & Professional

- South Carolina Bar
- American Institute of Certified Public Accountants

## Writing

### Employment Law Update: Background Becomes Battleground The Equal Employment Opportunity

Commission recently filed federal lawsuits against Dollar General and a BMW manufacturing plant in South Carolina based on the EEOC's revised guidance concerning use of criminal background checks.

### Employers Beware: NLRB Continues to Target Policies and Agreements

The National Labor Relations Board continues its pursuit of employee handbooks and employment contracts in a series of recent decisions examining the lawfulness of confidentiality and alternative dispute resolution policies and agreements.

### To Pay or Not to Pay? The Test for the Unpaid Intern

As the end of another academic year approaches, college students across the country are seeking summer employment opportunities.

### FMLA's Twentieth Birthday

On February 5, 2013, the Family and Medical Leave Act turned 20 years old. Coinciding with this milestone, the U.S. Department of Labor has issued a new final rule, which codifies further additions and revisions to the FMLA. This newsletter highlights some of the changes.

### New I-9 Form Shows More Changes May be in Store for Employers

On March 8, 2013, U.S. Citizen and Immigration Services (USCIS) published a new two-page version of Form I-9, together with six pages of instructions. This article explains some of the notable features of the revised Form I-9.

### Update: Noncompete Agreements in SC are Worth More Than the Paper They're Written On

In light of the restrictive nature with which South Carolina courts have historically viewed noncompetition agreements, many people assume they are not enforceable and, in essence, "not worth the paper they're written on." However, in January of this year, the South Carolina Court of Appeals upheld a physician's noncompetition agreement and expanded the scope of enforceable noncompetition agreements in this state.

### Employment Law Update: U.S. Supreme Court Set to Define "Supervisor" for Purposes of Title VII

The U.S. Supreme Court recently heard arguments in a case that could have a significant impact on employer liability. Specifically, as the result of an appeal in *Vance v. Ball State University, et al*, 646 F.3d 461 (7th Cir. 2011), the Court is poised to decide who qualifies as a "supervisor" for purposes of liability under Title VII of the Civil Rights Act.

### 2012 Employment and Labor Law Final Exam Answer Key

We received a great response to the 2012 Employment and Labor Law Final Exam. Thanks to all of our clients and friends who participated this year.

## 2012 Employment and Labor Law Final Exam

As 2012 comes to a close, it is time to put your employment and labor law knowledge to the test with Nexsen Pruet's second annual final exam. We will send out answers to the exam in two weeks.

## Employment Law Update: Recent Cases Address Employer Efforts to Protect Confidential Information

In recent months, both the Fourth Circuit Court of Appeals, which has jurisdiction over federal cases in North and South Carolina, and the South Carolina Supreme Court have addressed the issue of protecting trade secrets and confidential information.

## Employment Law - Business Immigration Update

Over the past few months, there have been several immigration developments that could have a significant impact on businesses in North and South Carolina. This update summarizes the key developments for employers.

## Employment Law Update - Employers Beware: NLRB Challenges Established HR Practices

The National Labor Relations Board (NLRB) has issued a number of recent opinions questioning and, in some instances, invalidating common employer practices and policies on the grounds of protecting employee rights under Section 7 of the National Labor Relations Act (NLRA). The impact of these decisions on handbook disclaimers and investigative procedures is addressed below.

## Employment Law Update - Patient Protection and Affordable Care Act: Upcoming Deadlines Require Employer Action

After months of anticipation and seemingly endless public debate, the U.S. Supreme Court announced its decision upholding the key individual mandate provision of the Patient Protection and Affordable Care Act (PPACA). While the significance of the decision cannot be overestimated, the real import is its practical effect on employers.

## New Rule Makes "Reasonable Factors Other Than Age" Defense More Difficult for Employers

On March 29, the Equal Employment Opportunity Commission issued a final rule making it more difficult for employers to establish a "reasonable factor other than age" defense for disparate impact claims under the Age Discrimination in Employment Act.

## Recent Guidelines for Employers of Active Duty & Veteran Service Members

The Equal Employment Opportunity Commission (EEOC) has issued timely and relevant guidance for employers addressing protections afforded veterans under the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Americans With Disabilities Act (ADA).

## Keep Your Ears Peeled: Employment Law Update on the FLSA's "Anti-retaliation" Provision

In this issue we describe and discuss a recent federal appeals court decision concluding that internal complaints about pay may be protected by the FLSA's anti-retaliation provision.

## Employment Law Update: Romance in the Workplace: You, Me and our Employer?

As Valentine's Day approaches, here are some interesting facts for employers to consider.

## Recent Ruling that Class Action Waivers are Illegal Shows NLRB Remains Active

On January 3, 2012, the National Labor Relations Board (NLRB) ruled that a class action waiver in a mandatory employment arbitration agreement is illegal.

## I-9 Compliance: Avoiding Traps of New Federal Security Features

A redesigned federal document is leading to confusion as businesses try to comply with the I-9 requirement.

## Employment Law Update - January 2012

As employers plan for 2012, the inherent risk posed by departing employees presents an opportunity to reevaluate measures used to protect confidential information and trade secrets from the high cost of misappropriation.

## NLRB Delays Requirement for Employers to Post Pro-Union Notice

On August 25, 2011, the National Labor Relations Board (NLRB) issued regulations requiring virtually all employers to post a large notice to employees informing them of rights under the National Labor Relations Act (NLRA), particularly their right to unionize. Employers must post the notice beginning April 30th, 2012.

## Employment Law Update - December 2011

The EEOC is processing a record number of charges and collecting record settlement amounts. It is pursuing an aggressive systemic enforcement program and focusing on hiring issues. In this edition we discuss what the EEOC is doing and some of the implications for employers.

## 2011 Employment and Labor Law - Final Exam Answer Key

Last week's final exam generated tremendous response from Nexsen Pruet clients and friends. Congratulations to our winners.

## Client Alert: 2010 Tax Act Provides Portability to Reduce the Estate Taxes Paid by Couples

The IRS is offering a new way for surviving spouses to reduce their estate tax bill if their spouse passed away after December 31, 2010.

## Speaking

"Employee Benefits Compliance: Critical Steps to Take for Compliance and Risk Mitigation," Nexsen Pruet's Employment Law Certificate Series Webinar - August 14, 2019

"Employee Benefits: Legalities in Discrimination of Health Benefits"; 2010 SCACPA Industry Conference; Columbia, SC; October 11-12, 2010

## Speaking Engagements

12.01.2021 | Webinar | WebEx  
2021 Employment Law Certificate Series

10.28.2020

Employment Law Briefing Webinar Series: Campaigning and the Workplace

05.06.2020

Employment Law Briefing Webinar Series: Getting Back to Work During the Pandemic

04.14.2020

WEBINAR: Fine-tuning FFCRA Response

## Insights

10.12.2021 | Article

Department of Labor Responds to COVID-Related Medical Premium Discounts and Surcharges

08.25.2021 | Article

Paid Time Off For Vaccinations – A Reason for an Employer Tax Credit

04.21.2021 | Article

The ARPA COBRA Premium Subsidy - The List of Must Do's

02.23.2021 | Article

Providing Incentives Can Be "Taxing"

08.25.2020

Retirement Plan Sponsors Must Soon Provide Annual Lifetime Income Illustrations

06.11.2020

IRS Provides Cafeteria Plans New Temporary COVID-19 Flexibility

04.06.2020

Five Things to Consider when Calculating Qualified Health Plan Expenses Under the FFCRA

04.01.2020

Employers Take Note: How to Properly Substantiate Your Payroll Tax Credits under the FFCRA

03.27.2020

CARES Act -- New Employee Benefit Tools to Support Affected Employees

03.20.2020

COVID-19: Managing HR, Benefits, and Immigration Challenges During the Pandemic

03.19.2020

New Federal Law Provides Emergency Paid Sick and Family and Medical Leave