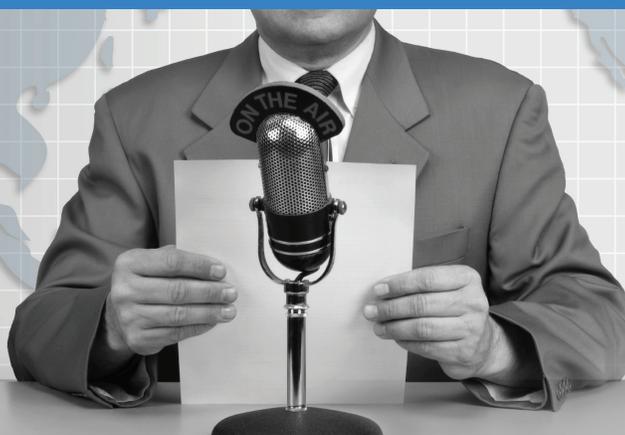


Employee Benefits Broadcast



Foley is pleased to provide you with a brief summary of the January 20, 2009 installment of the Employee Benefits Broadcast Web conference series.

In **Headline News**, Partner Leigh C. Riley discussed the legal issues to keep in mind when reducing or eliminating benefit costs and benefit considerations when terminating employees. The key points are:

- » Determine if your plan document permits amendments or termination of the plan
 - Check for any limitations that apply
 - Insurance coverage for plans may limit your ability to amend or terminate that contract
- » Remember that changes to benefits for union employees require negotiating those changes with the union
- » Determine if any legal constraints or limitations exist on changing or eliminating benefit plans

Partner Ann I. Mennell's **In the Spotlight** segment covered the new Family and Medical Leave Act (FMLA) regulations. Highlights of the discussion are:

- » These are the first significant changes to the FMLA since they were first introduced in 1995
- » Overall, these regulations are pro-employer and give employers more control over FMLA requests
- » New regulation relates to military family leave entitlement, which consists of two new kinds of military family leave:
 - **Qualifying exigency** leave allows a spouse, son, daughter, or parent of the employee on active duty or has been notified of an order to active duty in support of a contingency operation in the armed forces, to take 12 work weeks in one single 12-month period
 - **Military caregiver leave** allows a spouse, son, daughter, parent, or next of kin of a covered service member with a serious injury or illness incurred in the line of duty, to take 26 work weeks of leave during one single 12-month period

- » Employers must change FMLA policies and forms to allow for new military leaves
- » Additional FMLA changes involve new forms and processes

In **Cram Session**, Associate Katherine L. Aizawa explained what the Worker, Retiree, and Employer Recovery Act of 2008 and its allowance for plans to suspend minimum required distributions means.

- » Under previous Internal Revenue Service guidelines, once plan participants reach age 70-1/2 (or terminate employment if later), they must begin drawing plan distributions or face a 50-percent penalty on what should have been withdrawn, but was not taken from the plan
- » With the steep decline in stock market values, the minimum required distributions would have forced many plan participants to suffer losses
- » With the new law, retirees can request that the 2009 distribution not be paid
 - Excise tax will not apply for these waived distributions
 - Missed distributions do not have to be made up in future years

About the Employee Benefits Broadcast

The Employee Benefits Broadcast provides participants with needed information in the most efficient manner possible — only a telephone line and Internet access are required to participate — allowing employee benefits professionals to stay up-to-date with timely information from anywhere in the nation.

For more information, please contact Elie Harris at eharris@foley.com.

