

Even CEOs and entrepreneurs get fired: New blog helps lawyers protect their clients in a volatile executive compensation environment

For the past decade, executive compensation and its relationship to performance has been a hot topic. The law in this area is constantly changing. So too are the skills lawyers need in order to represent executives and entrepreneurs as they negotiate executive compensation.

Lawyers and law firms who hope to be successful for executives and entrepreneurs must operate at the cutting edge of these myriad changes. That is the purpose of this new blog.

Many print and electronic publications focus on the representation of employers in the executive compensation arena - but very few (if any) are devoted to the needs of executives and entrepreneurs themselves. I hope to fill this gap.

My name is Jotham Stein. With offices in California and Illinois, my legal practice focuses on the sophisticated practice of executive employment law. In my thriving practice, I work directly with executives and entrepreneurs - and also with other lawyers and law firms who serve these clients.

My new book on this subject - Executive Employment Law: Protecting Executives, Entrepreneurs and Employees - will be published by Oxford University Press in June 2011. I believe that my book will be a valuable resource to every lawyer who practices in the area of employment compensation. This blog provides a vehicle for me to continuously expand on the content of my book.

It is an unfortunate fact of life that few executive relationships lasts forever. Executives are fired all the time for a vast array of reasons - sometimes for good reasons and sometimes for reasons that seem irrational.

In this volatile environment, an ounce of prevention is worth of pound of cure. A well-negotiated and well-structured executive employment agreement anticipates and plans for not only compensation - but also issues that might arise during the course of employment (such as change of control) and at the end of employment (for whatever reason).

Most at-will employment agreements are little more than severance contracts negotiated before the first day of employment. This will be an important theme of my blog.

Even the most talented executive or most inventive entrepreneur is often ill-prepared to protect his or her own interests in this complicated area at the intersection of employment, securities, contract, intellectual property and tax law.

In addition, there are other "non-legal" aspects of executive compensation that are familiar to those with experience in this area - like understanding the political and business issues driving the employer in such negotiations. This is where the advice of an experienced practitioner adds great value.

Before a new position is accepted, careful attention should be paid to negotiation of the executive employment agreement - including salary, bonuses and commissions, equity and other benefits. My blog will elaborate on these areas.

Over the past decade, the negotiation of executive compensation packages has become increasingly complex - beginning with the Sarbanes-Oxley Act of 2002, continuing with the 2006 SEC overhaul of executive compensation disclosure rules, and more recently dealing with changes put in place by the 2010 Dodd-Frank Act (including shareholder votes on compensation packages and new golden-parachute requirements). There are a host of pending and expected SEC regulations addressing executive compensation expected this year and in coming years.

Many of these new rules and their impact will be addressed in the course of this blog

So, once again, welcome to my blog. Please subscribe. I look forward to providing you with a steady stream of valuable information that you may use to help executives and entrepreneurs negotiate executive employment agreements, maintain their employment relationships, and exit from these relationships in a position of strength.

If you are an executive or entrepreneur, I hope you too will subscribe. Executive compensation is a complicated subject. The more you understand, the better you can communicate with counsel and understand your role within the negotiation life cycle.

Please note that this blog does not provide legal advice and no attorney-client relationship is formed between you and anybody else via this blog or website. If you need legal advice regarding a specific executive employment relationship (or any other legal matter) you should retain a knowledgeable attorney to assist you.