

ATTORNEY BIOGRAPHY



Joseph M. Hamilton

Of Counsel

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Legal Administrative Assistant

Justine D. Colbert

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Practice Groups and Specialty Areas

Life, Health, Disability and ERISA Litigation

Real Estate and Environmental Litigation

Education

JD, Boston College Law School

BA, *magna cum laude*, Boston College

Bar and Court Admissions

Massachusetts

U.S. District Court for Connecticut

U.S. District Court for Massachusetts

U.S. Supreme Court

U.S. Court of Appeals for the Federal Circuit

U.S. Court of Appeals for the First Circuit

Professional/Community Affiliations

American Bar Association, Life, Health and Disability Insurance Law Committee;

Employee Benefits Committee

Defense Research Institute, Life, Health & Disability Committee

New England Claims Association

Worcester County Bar Association, former chair, Environmental Law Section

Town of Northborough, past chair, Planning Board and Conservation Commission

Higgins Armory Museum, former president and trustee

United Way of Central Massachusetts, Board of Directors

YMCA of Central Massachusetts, Board of Governors

U.S. Marine Corps

Joe concentrates his practice in life, health and disability insurance defense, ERISA, and land use litigation, including environmental litigation. He is a past member of the Firm's Management Committee and the former chair of the firm's Litigation Group.

He serves as counsel for numerous life, health and disability insurers, self-insureds and third party administrators at all levels of state and federal courts throughout Massachusetts. His representation includes the full spectrum of issues arising from both individual and group coverage, under both state and federal law, including ERISA. Joe also represents business clients in addressing litigation issues that arise in the context of land use and environmental concerns. This includes representing clients in connection with administrative appeals and enforcement actions involving the Massachusetts Department of Environmental Protection and the Environmental Protection Agency as well as actions involving private parties, including litigation related to contaminated property and regulatory compliance.

Joe was included in the 2024 edition of *The Best Lawyers in America*® for Insurance Law and Litigation - Insurance. Joe has been named a Massachusetts "Super Lawyer" by *Boston* magazine and *Law & Politics* every year since 2008.

Representative Matters

- Obtained a ruling from the U.S. Court of Appeals for the First Circuit that an ERISA plan properly found a disability caused by fibromyalgia and chronic fatigue was encompassed within the self-reported symptom provision of the plan
- Successfully tried a jury-waived case which determined the insurer correctly found that a disability was caused by a psychiatric, not a neurologic, condition
- Obtained a ruling on behalf of an insurer from the Supreme Judicial Court of Massachusetts, in a case of first impression, requiring an insured to receive appropriate care as a prerequisite for receiving disability benefits
- Represented an insurer before the Massachusetts Appeals Court to establish standard of proof for rescission of life insurance policies for fraudulent misrepresentation
- Represented an insurer responding to civil investigative demand from Massachusetts Attorney General and Division of Insurance regarding broker compensation, including managing a significant and complex document production
- Represented a disability insurer before the U.S. Court of Appeals for the First Circuit in establishing the standard of review in ERISA benefit claim determinations
- Represented an insurer before the U.S. Court of Appeals for the First Circuit in establishing that a disability policy constituted an ERISA plan

Representative Matters (continued)

- Obtained a jury verdict in federal district court for insurer against physician claiming total disability
- Represented an insurer in federal district court in establishing grounds for a rescission of coverage in benefit plan governed by ERISA
- Represented an insurer in obtaining precedent-setting ruling in federal district court regarding the production of surveillance materials in discovery
- Obtained a ruling on behalf of an insurer in federal district court that administrative record could not be opened to admit evidence generated after a final decision on an ERISA claim
- Represented a Massachusetts municipality before the Massachusetts Supreme Judicial Court in case of first impression regarding regulatory takings
- Obtained a contempt verdict against developer on behalf of municipality for failure to complete an affordable housing project, including an award of damages and attorneys' fees
- Represented clients in connection with a resolution of potential claims on EPA Superfund sites
- Represented clients in defending against and resolving compliance actions brought by the Massachusetts Department of Environmental Protection

Publications/Presentations

- "ERISA Case Law Update by Mirick, O'Connell," In-House Counsel Sub-committee of the DRI Life, Health, Disability and ERISA Committee, webinar (August 31, 2023)
- "Legal Year in Review," New England Claims Association, Annual Presentation (2006-2023)
- "Misrepresentation in the Life, Health, and Disability Insurance Application Process: A National Survey," 3rd Edition, American Bar Association, 2022 (editor and contributing author)
- "ERISA Survey of Federal Circuits," American Bar Association, 2022 (contributing author)
- "Residual vs. Total Disability: An Old Issue Revisited," Defense Research Institute's *Life, Health and Disability News*, June 2019
- "The Challenge of Residual Disability Claims," Eastern Claims Conference (March 2019)
- "Hot Topics in Disability Litigation," Defense Research Institute Webinar and Seminar (March 2019)
- "Resolving Insurance Claims Disputes Before Trial," American Bar Association, 2018 (contributing author)
- "Litigating Disability Insurance Claims," American Conference Institute (2003, 2007, 2012-2018)
- "The Law of Life Insurance," Defense Research Institute, 2017 (contributing author)
- "ERISA Litigation," American Conference Institute (2014-2017)
- "Mock Deposition and Mediation Workshops," International Claims Associations (2015-2017)
- "Minor and Beneficiary Disputes and the Role of Interpleaders," Defense Research Institute's Life, Health, Disability and ERISA Seminar (April 2015)
- "Managing the Relationship with Insurance Agents Before and During Litigation," American Bar Association Midwinter Symposium (January 2014)
- "Life Insurance Litigation," American Conference Institute (2012 and 2013)
- "New Appleman on Insurance Law Library Edition," Matthew Bender & Company, Inc., 2013 (contributing author)
- "Appropriate Care: How Much is Enough?," Defense Research Institute's *Life, Health and Disability Newsletter*, February 2012
- "Legal and Regulatory Update," JHA Risk Forum (August 2010)
- "Imposters in the Life Insurance Application Process," American Bar Association Midwinter Symposium (January 2010)
- "Misrepresentations in the Life, Health and Disability Application Process," American Bar Association Midwinter Symposium (January 2009)
- "The Fundamentals of ERISA Benefit Litigation," MCLE, 2008 (co-author)
- "ERISA Litigation," MCLE (July 2008)
- "ERISA Benefit Claims Regulations," American Bar Association Midwinter Symposium (January 2007)
- "The Interplay between Total and Residual Disability Provisions: When 'Total' Means 'Total,'" Defense Research Institute's *Life, Health and Disability Newsletter*, Fall 2004
- Mirick O'Connell Life, Health & Disability Newsletter (co-editor)
- Regular contributor to the newsletters of the American Bar Association's Life Insurance Law Committee and Defense Research Institute's Life, Health and Disability Committee