

**SAN DIEGO**

# Attorney

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**Marc Schechter**  
**DOING WHAT HE LOVES ...BUT STILL PLAYING THE BLUES**



# *Doing What He Loves ...* **But Still Playing The Blues**

Marc Schechter's Love of Business, Tax and ERISA  
Law Is Matched Only by His Love of Playing Music

by Jennifer Hadley

**M**arc Schechter is a bit of a dichotomy. By day, he's one of the most respected and admired business & tax attorneys in San Diego. Nationally, his expertise in ERISA law has led him to speak in front of countless organizations on a range of employee benefits law topics, and he's built a nationwide practice in the specialized field of Employee Stock Ownership Plans (ESOPs).

He's been named a Super Lawyer in both San Diego and California as a whole. He's earned an AV Preeminent 5.0/5.0 rating from Martindale-Hubbell. He has also taught the ERISA/Employee Benefits course as adjunct professor at California Western School of Law. Yet he spends almost all of his spare time playing the blues...literally. But for Schechter, whose day to day legal work requires impeccable attention to detail and exquisite analysis of extraordinarily complex issues, playing the blues is the perfect way to unwind and relax for a few hours a day.

## **Practice Makes Perfect**

Born and raised in New Jersey, Schechter says "I really always had ambition to be a professional musician, but the economic realities made me look at other areas in which I had interest. My parents encouraged me to attend college, even if it was initially for a music degree, because not only are they both musicians, but they were able to see the benefit of a college degree at a time I did not appreciate its importance." Schechter's undergraduate degree and studies were in music, specifically classical guitar, though he took plenty of non-music courses. On weekends he played rock and blues music on the New Jersey club scene with a band comprised of fellow college students.

Fortunately, in addition to his love of music, Schechter also "always had an interest in history and a knack for analytical reasoning, which made the study of law an easy choice because I was able to put these interests to use in a career," he says. However, he admits that the study of law as opposed to music took some getting used to. Yet, Schechter's parents again supported his goal. "At that time my older brother was attending The Medical College of Pennsylvania

and my younger brother was in undergraduate school, all funded by my parents. "They sacrificed to see me through law school," he says. So in 1981, Schechter made the move across the country to attend law school at California Western School of Law.

Schechter may have put his original plans to become a professional musician on hold, but that didn't mean that he abandoned his love of guitar. Nor did it mean that his undergraduate work was irrelevant. "The amount of time devoted to music studies and instrumental practice well prepared me for the volume of daily material law school study required," he says. His school record serves as testament. Schechter won the Scriba Regis Award for authoring the best student submitted *Law Review* article and received the Miller Tax Award for earning the highest grade point average in the subjects of federal income tax and estate and gift tax. Before graduating Magna Cum Laude, he also met his future law partner, Rob Butterfield in 1982 and married his college girlfriend in 1984.

"I was my partner Rob Butterfield's law clerk from 1982-1984, working exclusively in the ERISA area. We were both employed by one of San Diego's finest tax and estate planning lawyers, Ralph Gano Miller. Law clerking for Rob made me learn the ERISA field which was still relatively new in 1982. It is a complex area and most federal judges will tell you that. In fact, Justice Ginsburg mentioned in a recent ruling that ERISA is one of the most complex areas in which to practice. To this day, I spend a few hours each week just keeping up with regulatory and case law announcements, as well as keeping an eye on changing legislation," Schechter says.

"In 1986, Rob left the firm and Thomas Monson and Ralph Gano Miller decided to offer me a partnership position," Schechter says. Schechter worked with Monson and Miller until 1994, and says "we still have a great relationship with the lawyers at the Miller Monson firm and I consider Tom Monson to be one of the best litigators around." From there Schechter headed up the burgeoning ERISA department at Hinchy, Witte, Wood, Anderson & Hodges. "Ken Wood and I worked on some very interesting ERISA litigation matters,









Attorneys Schechter- Corey and Marc

Bauman Photographers

and I learned a lot from that relationship,” Schechter recalls.

But an out of the blue phone call in 1998 would change everything. “Rob Butterfield called and asked if I had an interest in partnering up to establish San Diego’s premier ERISA/employee benefits law firm. I liked the idea and we formed Butterfield Schechter LLP,” he recalls.

### Striking the Right Chord

“Practicing in the ERISA area takes a special mindset and attention to detail. ERISA work takes not only a complete understanding of ERISA, but you also have to be an excellent business lawyer. You must be able to see the client’s whole picture,” Schechter says.

As far as clients go, Schechter explains that the firm doesn’t necessarily have a specific “type” of client. “Our client base runs from professional athletes and musicians to medical groups and law firms and companies of all sizes and industries, including publicly traded entities. We do work for some governmental agencies as well. What our clients -regardless of size and industry- have in common is a need for attorneys well skilled in ERISA/employee benefit matters and/or business and tax related matters,” he says.

Schechter and Butterfield didn’t waste any time earning a favorable reputation for their firm. Within just a few years of partnering, Schechter worked on what would become the firm’s first reported case, *Wayne v. Pacific Bell*, 189 F.3d 982, opinion

amended and superseded, 238 F.3d 1048 (9th Cir. 2000), cert. denied, 122 S.Ct. 40 (2001).

“I had the pleasure to work on *Wayne v. Pacific Bell* which permitted the Ninth Circuit to establish some standards for accurate disclosure to questions asked by employees about potential upcoming benefit plan changes. We went from our case being dismissed on summary judgment at the district court to a complete reversal and essentially a directed verdict in our favor by the Ninth Circuit. *Pacific Bell* filed a motion for certiorari in that case to the U.S. Supreme Court, which was denied to our great surprise, despite a conflict in federal statutory law and a split in decisions among the circuits. That case put us through the paces from loss on MSJ in the district court to victory on appeal, and has established some important authority on disclosure of benefit plan changes within the Ninth Circuit,” Schechter explains.

For Schechter personally, the formation of the new firm also allowed him to focus on an additional niche, which has allowed the firm’s practice to have a nationwide reach. “My favorite niche within the ERISA/benefits field is the Employee Stock Ownership Plan (ESOP) area. I find this to be a fascinating tool to not only create business succession options for privately owned companies, but perhaps even more importantly, allows the average worker to become motivated by becoming an owner of the business, thereby sharing in its fortunes. It is really an amazing way to transfer ownership and motivate employees,” he says.

Through Schechter's ESOP practice, "I have helped over 100 businesses transition ownership and permit the founders to comfortably retire while allowing a new generation of employees to become owners in a tax efficient manner. It really is rewarding to see employees retiring with million dollar plus distribution checks because they shared ownership in a successful business," he adds.

### Fine Tuning the Firm

These days, more than 15 years after forming the firm, Butterfield Schechter & Van Clief is clearly the leading provider in San Diego County of ERISA/employee benefits legal services. Since its foundation the firm has been driven by a belief that "success is measured when clients, referral sources and competitors regard us as the community leader," Schechter says. "Success is achieved as a result of our knowledge of ERISA/employee benefits through continued training, keeping up to date with current laws, regulations, and news reports and striving to always be ahead of the curve," he adds. Continuing Schechter says "operating with integrity, contributing to our legal community and helping our employees realize their full potential," are additional keys to the firm's success.

When it comes to operating with integrity, Schechter says that "some of the best advice I received early in my career was to be responsive to clients and make sure they feel appreciated. Obtaining quality clients is not a simple matter, so if you are retained, you must make sure you do what is necessary to retain the trust the clients bestowed on you."

In order to retain that trust, the attorneys at Butterfield Schechter & Van Clief work tirelessly. "A lot of attorneys can identify problems, but it takes some extra talent to not only identify the problem, but find a solution acceptable to the client, and of course legally compliant. Our ability to creatively plan for clients sets us apart," he says.

The ability to find solutions extends to the firm's own operations. In fact, the firm operates so smoothly that they don't even employ an office administrator. "We have 19 employees and everyone knows what is expected of them," Schechter says. "At present we have three partners and three associate attorneys." Incidentally, Schechter is thrilled to count his son Corey as one of the firm's associates. "He is a 2011 California Western School of Law graduate, who is in the office right next to mine," Schechter says proudly.

Moreover, the firm "grows our staff from law clerks to associates whenever possible. Presently all of our attorneys clerked for us while attending law school. This has allowed us to retain excellent staff that are ready to hit the ground running when they pass the bar. We also well compensate our staff for a firm of our size, which allows us to retain the excellent attorneys and support staff we have hired," Schechter says.

"We have two law clerks, three paralegals and eight support staff, most of which are delegated to certain aspects of the overall practice, such as business organizational matters, tax (IRS or FTB) audits and Department of Labor audits, plan drafting and IRS filings, Qualified Domestic Relations Orders and lastly our growing ERISA litigation department. We are very lucky to have Kristine Custodio on board who has been recognized as a top paralegal for years in San Diego and nationally. We are also fortunate to have Rebecca Carter who handles our technology and some administrative matters, and is the best word processor I have ever had the pleasure to work with...for 20 years this year," he adds.

As a whole the firm is also involved in charitable enterprises. "All partners have participated in charitable or public service organizations over the years such as Promises2Kids, Kiwanis, the American Cancer Society, and Transverse Myelitis Association. We are all also active speakers in benefit law matters, and I've been speaking at national ESOP conferences for 25 years," he says.





## Future Plans: Playing It By Ear

As far as the future of the firm is concerned, Schechter says that the team will continue to strive to provide clients and referring attorneys with its knowledge of employee benefits law, business law and tax law to both design unique benefit programs for employers and to ensure the plans remain legally compliant with changing tax and ERISA requirements.

“One of the best sources of referrals we have are other attorneys who we have had the opportunity to work with over the years, or who have been referred to us because of a recommendation they received from another attorney. I would estimate that half of our work involves coordinating with other attorneys or law firms to permit us to complete work we are engaged to do. We are very respectful of other’s attorney-client relationships, and if we are brought in to assist on a benefit plan issue, we do not overstep the purpose of our referral. Nothing makes a referral source unhappy,” he says candidly.

However, other aspects of the firm’s future remain up in the air. “The Affordable Care Act (ACA) overlaps with ERISA and is going to be an upcoming area needing legal counsel skilled in keeping clients compliant. It may wind up being a compliance landmine for clients, which would create a huge practice area for us, so we are planning to be in business for a while,” he laughs.

For Marc personally, the future obviously also holds lots of hours playing music. “This area of law can be tedious,” he says honestly. “So playing the guitar is great way to blow off steam. I suspect this is not necessarily a typical hobby for most attorneys, but it is a true passion of mine. I still play several hours a day, and there are always ways to improve. My 20-year-old daughter Molly (a USD psychology major) has been a guitar player since around seven and will occasionally play along. I love doing something I know is completely impossible to master in a lifetime. But I’m presently working on a list of material to go into the studio and record,” he says with a smile.

And Marc has even found a way to intermingle law with music. “We are now going into our 16th year as a partnership and have built the largest ERISA-specific firm in San Diego, and one of the largest in the state of California. In 2013 we celebrated our 15 year anniversary with a party for clients, colleagues and friends. We were lucky enough to have firm client and good friend Jorma Kaukonen, founding member of The Jefferson Airplane and current member of Hot Tuna, perform a private acoustic performance for our guests. It is not often you can get a member of the Rock and Roll Hall of Fame to perform at a private event and it was a real honor to have him. Even more, I get the opportunity to utilize skills from my undergraduate degree and law degree when handling his matters,” he says. ■

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## EXPERIENCE



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### » EDUCATION

- Rowan University, BA
- California Western School of Law, JD, Magna Cum Laude

### » AFFILIATIONS

- State Bar of California (Employee Benefits-Tax Section)
- San Diego County Bar Association (Taxation Section)
- State Bar of New Jersey
- Admitted to U.S. Supreme Court Bar
- Western Pension and Benefits Conference
- The National Center for Employee Ownership
- ESOP Association of America (former member of the Legislative and Regulatory Advisory Committee)
- Former adjunct faculty, California Western School of Law, courses in ERISA and Employee Benefits

### » AWARDS

- Scriba Regis Award for authoring the best student submitted Law Review article
- Miller Tax Award for earning the highest grade point average in tax courses
- Highest Academic Achievement Award in the subjects of federal income tax and estate and gift tax
- Super Lawyers, San Diego and California State Edition
- Martindale Hubbell AV® Preeminent™ 5.0 out of 5