



Risk Manager

ERISA Can Be Key Defense in Severance Claims

By: Justin Ward. *This was posted Friday, March 4th, 2011*

The leader of our Life and Health team, [Robert B. "Chip" Delano, Jr.](#), writes:

Regardless of how carefully plaintiff's counsel may attempt to disguise claims for severance in state law clothing, employers should remember that claims of entitlement to severance benefits by former employees under a plan established by the employer for the purpose of providing severance to employees are frequently ripe for dismissal as being preempted in their entirety by the [Employee Retirement Income Security Act of 1974](#), 29 U.S. § 1001, et seq., ("ERISA"), as illustrated by a recent decision from the [U. S. District Court Western District of Virginia](#).

In [Woodruff v. Monumental Life Ins. Co.](#), 2011 U.S. Dist. LEXIS 8250 (W.D. Va. 2011), a long time employee who retired from his job with an insurance company sued alleging that his former employer had withheld a [severance package](#) from him. The plaintiff filed suit in state court, making state law claims of [breach of contract](#) and [quantum meruit](#). Monumental removed the case to federal court and moved to dismiss the action for failure to state a claim upon which relief can be granted. The District Court ruled that the plaintiff's action was preempted by the ERISA, but granted plaintiff leave to file an Amended Complaint under that federal statute.

After plaintiff filed his Amended Complaint alleging violations of ERISA, a state statute, breach of contract and quantum meruit, the District Court again held that each of plaintiff's state law claims seeking severance was preempted by ERISA and must be dismissed.

With respect to plaintiff's allegations attempting to make a claim under ERISA, the District Court ruled that in his Amended Complaint plaintiff had still failed to adequately allege a right to recovery under an ERISA plan, citing plaintiff's failure to allege that he was even covered by such a plan much less the terms of that ERISA plan. Since the plaintiff had pled only a conclusory allegation that he was entitled to severance, the District Court granted Monumental's Motion to Dismiss and dismissed each of plaintiff's claims without prejudice.

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