



## And The Defense Wins

Published 5-11-11 by DRI

Robert B. "Chip" Delano, Jr.



In the ERISA case of *Mullins v. AT&T Corp.*, 2011 WL 1491223 (4th Cir. 2011), the Fourth Circuit recently affirmed the federal district court's decision granting summary judgment for defendants on the plaintiff's claim for long term disability (LTD) benefits under a LTD plan self-funded by the plaintiff's employer, AT&T, and administered by Connecticut General Life Insurance Company (CGLIC). Former DRI Mid-Atlantic Regional Director and DRI State Representative for Virginia, [Robert B. "Chip" Delano, Jr.](#), of **Sands Anderson PC** in Richmond, successfully defended this LTD claim.

CGLIC considered the conflicting opinions of the plaintiff's treating physicians, solicited the opinions of two physician consultants, obtained a functional capacity evaluation (FCE) to independently evaluate her physical strengths and limitations for employment, a transferrable skills analysis (TSA) to determine whether there were jobs that she could perform within the limitations identified in the FCE, and a labor market study (LMS) to determine whether there were employers within the plaintiff's geographical area that could actually accommodate her limitations and meet the wage replacement requirement of the LTD plan.

The Fourth Circuit reviewed the administrator's LTD claim determination under the deferential abuse of discretion ERISA standard of review. The court ruled CGLIC's benefit determination to be clearly supported by substantial evidence, finding that resolution of conflicts in the opinions of the plaintiff's own treating physicians was CGLIC's responsibility as the claims administrator and well within the discretion conferred upon it by the plan. CGLIC also reasonably relied upon the results of the FCE that indicated the plaintiff was capable of performing sedentary work within her limitations, as well as the TSA and LMS to support its determination that there were actual jobs available in the market that the plaintiff could perform within her limitations.

The plaintiff contended that CGLIC had abused its discretion because it failed to strictly comply with its claims processing procedures when considering her LTD claim. The Fourth Circuit agreed with the district court's finding that, although CGLIC had an obligation to some degree to process the plaintiff's claim in accordance with its procedures and that such compliance is always a consideration of the reasonableness of the decision, strict compliance is not a prerequisite to a finding that the administrator's overall decision was both principled and reasonable. After review of the administrative record and the CGLIC's claims manuals, the Fourth Circuit agreed with the district court's determination that CGLIC substantially complied with its procedures; that, to the extent that CGLIC varied from its claim procedures, it did not abuse its discretion in doing so; and that CGLIC made a reasonable, principled determination that the plaintiff, who was in her mid-thirties and had some college education, had failed to prove that she was incapable of performing any job for any employer.

**To learn more about DRI, an international membership organization of attorneys defending the interests of business and individuals in civil litigation, visit [www.dri.org](http://www.dri.org).**