

The U.S. Supreme Court's Decision in *CIGNA Corp. v. Amara* - A Mixed Bag for Plan Sponsors

Author: John D. Martini, Partner, Philadelphia

Author: Dennis R. Bonessa, Partner, Pittsburgh

Author: Lori M. Atkin, Counsel, Philadelphia

Author: Dodi Walker Gross, Partner, Pittsburgh

Author: Anita J. Domalik, Associate, Pittsburgh

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The recent U.S. Supreme Court decision in the class action case of *CIGNA Corp. v. Amara* contains both good news and bad news for ERISA plan sponsors.

The U.S. Supreme Court held that a summary plan description ("SPD") does not constitute the terms of a plan. Therefore, a civil action under ERISA to enforce the terms of a plan cannot be used to enforce provisions of an SPD that conflict with the plan document. The Supreme Court also held that a presumption of likely harm is insufficient to determine the members of the class action. Actual harm is required.

While the above rulings are favorable to plan sponsors, the U.S. Supreme Court, in dicta, also stated that reformation of a plan and monetary damages may be acceptable equitable remedies for the failure to provide sufficient notice of benefit reductions and deficiencies in required plan communications.

Background

In 1998, CIGNA froze its traditional defined benefit pension plan (the "Pension Plan") and adopted a new cash balance plan. CIGNA told participants the new retirement plan would:

- Significantly enhance its retirement program
- Produce an overall improvement in retirement benefits
- Provide the same benefit security with steadier benefit growth
- Not result in cost savings to CIGNA

CIGNA made an initial contribution to each cash balance plan account ("account"), which it told participants represented the full value of the benefit they earned under the Pension Plan. The cash balance plan provided that participants would receive the greater of the benefits accrued under the Pension Plan on the date it was frozen, or their account balances under the new cash balance plan.

A class of participants sued CIGNA, asserting:

- The initial deposit did not represent the full value of the benefits participants had earned under the Pension Plan because, among other things, the calculation ignored the Pension Plan's subsidized early retirement benefit, and a number of participants were subject to "wear away" (i.e., they had to work for a number of years before their benefit under the cash balance plan would exceed their benefit under the Pension Plan when it was frozen)
- CIGNA failed to provide them with a legally sufficient notice of a significant reduction in their future benefit accruals (commonly known as an ERISA § 204(h) notice)
- The SPD and other required communications were deficient and violated ERISA because nothing was disclosed about the less generous benefit features of the cash balance plan
- CIGNA, contrary to its representation, benefitted from a significant cost savings by switching to a cash balance plan

The District Court agreed that CIGNA's disclosures violated ERISA, but held that it did not have the authority to require CIGNA to reinstate the Pension Plan and provide comparable future benefits. However, the District Court did order CIGNA to reform its cash balance plan to provide participants with the benefits accrued under the Pension Plan on the date it was frozen plus future cash balance accruals. The District Court based its decision on ERISA § 502(a)(1)(B), which permits a civil action to be brought by a plan participant or beneficiary to recover benefits due to him under the terms of his plan. The Second Circuit affirmed the District Court's decision.

Supreme Court Decision One - May 16, 2011

In its petition to the Supreme Court, CIGNA argued that ERISA § 502(a)(1)(B) did not authorize the District Court to reform the terms of the CIGNA cash balance plan. The Supreme Court agreed that the SPD did not constitute the terms of the plan, and its terms could not be enforced through ERISA § 502(a)(1)(B).

However, the Supreme Court decision went on to state that the type of relief sought by the participants might be reached under the equitable remedy provisions of ERISA § 502(a)(3).

Supreme Court Decision Two - May 23, 2011

In a second petition filed with the Supreme Court, plan participants asked the Court to determine whether the District Court erred in holding that it lacked authority under ERISA to:

- Reinstate the CIGNA Pension Plan as a remedy for CIGNA's notice violations

- Require CIGNA to provide future benefits comparable to the Pension Plan benefits as a remedy for the inaccuracies contained in the SPD

The Supreme Court vacated the District Court's decision in order for the District Court to also reconsider the possible equitable remedies it may have with respect to these matters.

Lesson For Plan Sponsors

Plan fiduciaries have an obligation under ERISA to provide notice of benefit reductions and accurately describe plan terms. However, the Supreme Court's opinion highlights the fact that plan fiduciaries need to be careful not to "sugar coat" benefit reduction notices and communications to avoid misleading participants. Notices and plan communications, including SPDs, need to not only point out the positive aspects of benefit changes, but to also properly explain any negative impact to the participants.

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