

Ninth Circuit Confirms That Plan Language Controls In The Absence of Detrimental Reliance on SPD Language

In *Skinner v. Northrop Grumman Retirement Plan B*, 2012 U.S. Dist. LEXIS ____ (9th Cir. March 16, 2012) the Ninth Circuit applied the Supreme Court's ruling in *CIGNA Corp. v. Amara*, 131 S. Ct. 1866 (2011) wherein the high court ruled that ERISA "summary documents, important as they are, provide communication with beneficiaries *about* the plan, but that their statements do not themselves constitute the *terms* of the plan for purposes of § 502(a)(1)(B)." (The holding in *CIGNA Corp. v. Amara* was discussed in our blog here -- <http://www.californiainsurancelitigation.com/article/boon-or-bust-for-employee-rights-under-erisa-plans/>) While the Ninth Circuit adopted the Supreme Court's logic and ruling, it left open the possibility that language contained only in the Summary Plan Description ("SPD") could be enforced if a claimant *relied* on that language.

In *Skinner*, two retirees sued for additional retirement benefits under an ERISA-governed pension plan. The retirees alleged that their pension benefits should be calculated using the formula set forth in the SPD, rather than the plan documents. The Plan moved for, and was granted summary judgment by the trial court on the grounds that the retirees had not raised a genuine issue of material fact with respect to the proper amount of pension benefits they were entitled to receive.

At the district court level, all parties agreed that the plaintiffs were strictly limited "to obtain other appropriate equitable relief" under ERISA. On appeal, the Ninth Circuit explained that "the *Amara* Court stated that, under appropriate circumstances, § 502(a)(3) may authorize three possible equitable remedies: estoppel, reformation, and surcharge." The retirees only sought reformation and surcharge. The Ninth Circuit rejected the reformation claim because there was no evidence that the plan documents "fail[ed] to reflect that drafter's true intent" or "that Northrop Plan B contains terms that were induced by fraud, duress, or undue influence." Similarly, the Ninth Circuit ruled that the ERISA claimants were not entitled to a surcharge remedy because it found that "by failing to enforce the terms of the 2003 SPD instead of the terms of the plan master document" there was "no evidence that the committee gained a benefit by failing to ensure that participants received an accurate SPD" did not constitute a breach of fiduciary duty.

While the Ninth Circuit ruled against the retirees, it noted that they did not make an estoppel argument because "they presented no evidence of reliance on the inaccurate SPD." Thus, while the Ninth Circuit found that, in this particular instance, the language of the plan documents would be enforced over the language in the SPD, the Court acknowledged that if a claimant could demonstrate reliance on the SPD, the language in the SPD might well control.

Such a ruling is consistent with the recent ruling in the District Court of Puerto Rico where the court reject the defendant's argument that *Amara* found that equitable estoppel is not an appropriate avenue for relief under ERISA. Indeed, the court noted that "equitable estoppel forms a very essential element in . . . fair dealing, and rebuke of all fraudulent misrepresentation, which it is the boast of courts of equity constantly to promote." See *Guerra-Delgado v. Popular, Inc.*, 2012 U.S. Dist. LEXIS 44432 (D. P.R. March 29, 2012) (internal quotations removed).