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INSURANCE LAW

NEWSLETTER OF THE INSURANCE LAW PRACTICE GROUP OF MANATT, PHELPS & PHILLIPS, LLP

Nolan v. Heald College: Newsletter

A recent decision by the Ninth Circuit may make it more difficult for defendants to obtain summary judgment in ERISA cases. *Nolan v. Heald College*, 2009 U.S. App. LEXIS 581 (9th Cir. Jan 13, 2009). In *Nolan*, the Ninth Circuit concluded that district courts examining evidence outside of the administrative record in ERISA cases must apply the traditional rules of summary judgment—including the requirement that evidence be viewed in the light most favorable to the nonmoving party.

Nolan was insured under a MetLife long-term disability policy that was part of her employer's ERISA-governed employee benefit plan. The plan granted MetLife broad discretion to both interpret relevant plan provisions and to determine eligibility for benefits. Nolan obtained long-term disability benefits following an injury at work. After two years of payments, MetLife reevaluated Nolan's claim and found that she was not eligible to continue receiving benefits under the plan. Nolan unsuccessfully appealed MetLife's denial twice. In both appeals, MetLife submitted her file to separate independent physicians, who found that Nolan's injuries did not render her totally disabled under the terms of the plan. Nolan then filed suit.

Nolan and Metlife filed cross-motions for summary judgment in the district court. Nolan submitted evidence outside the administrative record, arguing that she was entitled to do so by *Abatie v. Alta Health & Life Ins. Co.*, 458 F.3d 955, 970 (9th Cir. 2006). Nolan maintained that her evidence proved that the doctors' ongoing business relations with MetLife may have biased them in MetLife's favor.

After reviewing the evidence presented by Nolan, the district court granted summary judgment in favor of MetLife. The court concluded that Nolan's plan unambiguously conferred discretion upon MetLife to interpret the plan and

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determine eligibility for benefits. The court then applied the standard articulated in *Benedixen v. Standard Ins. Co.*, 185 F.3d 939 (9th Cir.1999), which held that where the abuse of discretion standard applies in an ERISA denial, “a motion for summary judgment is merely the conduit to bring the legal question before the district court and the usual tests of summary judgment, such as whether a genuine dispute of material fact exists, do not apply.” *Id.* at 942. Based on that standard, the district court rejected Nolan’s evidence of bias because the evidence did not “demonstrate a prima facie case of misconduct,” and applied an abuse of discretion standard tempered with no skepticism. The court concluded that MetLife did not abuse its discretion in denying Nolan’s claim for benefits because it was entitled to rely on the opinions of the two doctors, and granted summary judgment in MetLife’s favor.

The Ninth Circuit reversed the grant of summary judgment on appeal. It pointed to *Met Life Ins. Co. v. Glenn*, 1285 S. Ct. 2343 (2008), in which the Supreme Court determined that an insurer’s dual role in evaluating and paying claims created a structural conflict of interest, and that this conflict of interest was a factor that should be taken into account when determining whether the plan administrator abused its discretion in denying a claim. Applying this reasoning, the Ninth Circuit concluded that “a district court must apply the traditional rules of summary judgment when examining evidence outside of the administrative record in an ERISA case, including the requirement that the evidence must be viewed in the light most favorable to the nonmoving party.” Furthermore, the Ninth Circuit explained that the district court could not rely on the holding in *Benedixen*, on the ground that it applied only in cases where the district court’s review was limited to the administrative record and the claimant was not entitled to a jury trial. Because the district court was examining evidence outside the administrative record in this case, the traditional rules of summary judgment applied.

The Ninth Circuit determined that because Nolan’s additional evidence directly impacted the abuse of discretion standard, it had to be properly considered. Thus, the district court had to examine the potential conflict as a factor in determining whether there was an abuse of discretion and could not grant summary judgment without first doing so.

The Ninth Circuit suggested two ways in which the district court could have properly considered this evidence. First, applying the traditional rules of summary judgment, the district court could have considered the evidence presented by Nolan in the light most favorable to the nonmoving party and

tempered the abuse of discretion standard with skepticism. In the alternative, the district court could have held a bench trial on the issue of bias, thus ensuring a full bias inquiry. Since the district court did neither, the Ninth Circuit found that the district court's weighing of the evidence was improper.

This decision is significant because it could make it more difficult for insurers to obtain summary judgment in ERISA cases in which the insured submits evidence of bias.

FOR ADDITIONAL INFORMATION ON THIS ISSUE, CONTACT:



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