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Allen Matkins

Legal Alert



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Supreme Court Rules that Individual Benefit Plan Participants Can Sue Employers under ERISA

On February 20, 2008, the United States Supreme Court ruled that individuals who participate in an employee benefit plan have the right to sue the employer and other plan fiduciaries for breach of fiduciary duties under the Employee Retirement Income Security Act (ERISA). Previously, federal appeals courts were split on this issue, with some holding that fiduciary duty lawsuits could only be filed on behalf of the plan and not on behalf of individual participants.

This alert is especially important to employers that maintain 401(k) plans or other benefit plans subject to ERISA.

The Supreme Court ruling makes clear that lawsuits by individuals are not limited to enforcing the terms of the governing plan documents, but also include the right to recover for breach of ERISA fiduciary duties. Individuals may now sue if they feel their employer or another fiduciary has not properly invested plan assets, has not selected proper plan investment options, has violated the duty of loyalty to plan participants, or has failed to follow the terms of the governing plan documents. Consider the following examples:

- An employer fails to regularly monitor its 401(k) plan investment options, and does not discover that the investment return is poor because investment expenses are excessive. Individual plan participants may sue the employer for breach of fiduciary duties.
- An IRS audit reveals that an employer made errors in administering its 401(k) plan. The IRS disqualifies the 401(k) plan, which causes individual participants to be taxed on their plan benefits. The individuals may now sue for breach of fiduciary duties to recover lost benefits and income taxes.
- An employer's failure to amend its 401(k) plan to comply with new laws results in plan disqualification. Individual plan participants may sue the employer for breach of fiduciary duties.

The Allen Matkins employee benefits attorneys have the tools to help fiduciaries avoid and mitigate this type of liability. For assistance, please call your Allen Matkins contact or our employee benefits attorneys listed above.

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