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# U.S. Supreme Court Hears Oral Arguments in *Hardt v. Reliance Standard Life Insurance*: Under What Circumstances Can a Court Award Attorneys' Fees in ERISA Actions?

The U.S. Supreme Court heard oral arguments yesterday in the important ERISA disability case of *Hardt v. Reliance Standard Life Insurance (09-448)*. In that case, Bridget Hardt filed suit, arguing that Reliance Standard Life Insurance Co. wrongly denied her claim for long-term disability benefits. The district court found that Reliance's original decision denying benefits disregarded pertinent medical evidence in violation of ERISA and found that the decision was otherwise unsupported by substantial evidence. Based on those findings, the district court remanded the matter to Reliance for reconsideration, ordering it to make a new benefits determination, after which it finally granted the benefits due. The district court then awarded Hardt $39,149 in attorney fees.

The Fourth Circuit Court of Appeals reversed, holding that section 502(g)(1) of ERISA provides a district court discretion to award attorney fees only to a prevailing party, and Hardt was not a prevailing party because her only request for relief was the award of benefits, which the district court did not award.

The questions presented were: (1) Whether ERISA section 502(g)(1) provides a district court with discretion to award reasonable attorney's fees only to a prevailing party; and (2) whether a party is entitled to attorney's fees pursuant to section 502(g)(1) when she persuades a district court that a violation of ERISA has occurred, successfully secures a judicially ordered remand requiring a redetermination of entitlement to benefits, and subsequently receives the benefits sought on remand.

The justices interrupted both sides frequently during oral throwing out hypothetical questions in an apparent effort to find a rule that would work in situations where a result was achieved, even though it was not based on the award sought and did not result from a judgment. There were many questions around the issue of a plan participant achieving substantial success with a remand to the claim administrator. It appears that the court is poised to allow an award of attorney's fees even if a plan participant does not obtain an award of benefits in litigation or does not achieve a judgment. It is interesting that the Court's new decision in *Conkright v. Frommert*, __ U.S. __ (April 21, 2010) came up five times in the context that this decision encourages remands, which will limit the opportunity of plan participants to obtain judicial decisions. Indeed, rather than making a judicial decision, the decision makes it likely that the plan participant would prevail before the plan administrator.

Thus, given *Conkright*, denying an award of attorney's fees in these types of situations will, according to Justice Roberts, "severely limit the circumstances under which Plaintiffs are entitled to fees."

By: Robert J. McKennon
Partner
McKennon|Schindler LLP
384 Forest Avenue, Suite 20
Laguna Beach, California 92651
877-MSLAW20
(877) 675-2920

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