



Reasonable Reliance on Erroneous SPD Needed to Establish Entitlement to Additional ERISA Benefits

What happens when an ERISA plan provides for a certain level of benefits and the required summary plan description ("SPD") given to plan participants provides for greater benefits? The District Court for the Central District of California answered that question recently with its holding in *Skinner v. Northrop Grumman Retirement Plan B*, 2010 U.S. Dist. LEXIS 6591 (C.D. Cal. Jan 26, 2010). In that case, the court held that former employees who received an inaccurate SPD were not entitled to increased retirement benefits as a result of the error. In so ruling, the court determined that plaintiffs failed to demonstrate "reasonable reliance" on the SPD, which plaintiffs contended did not provide them sufficient notice of the plan's offset provision. The district court applied the standard set by the Ninth Circuit in reversing a prior ruling granting a motion for summary judgment wherein the court, in an unpublished decision in *Skinner v. Northrop Grumman Retirement Plan B*, 334 Fed. Appx. 58, 2009 WL 1416725, *1 (9th Cir. May 21, 2009), concluded:

On remand, the district court should reconsider each of [Plaintiffs'] claims in light of our conclusion that (1) the 2003 SPD's incorporation of the 1998 SPD by reference **did not notify [Plaintiffs]** that the annuity equivalent offset would apply to their transition benefits, and (2) in terms of **[Plaintiffs'] expectations** for Part B of the transition benefit, the 1998 SPD's description of the offset's limited applicability controls over the 2003 Restatement's description of the offset as universally applicable. (emphasis original)

Although plaintiffs disagreed, the court adopted defendants' argument that the Ninth Circuit required a showing of "reasonable reliance." The district court reasoned that providing an additional benefit absent a showing of reasonable reliance would provide a windfall for the former employees and that is a "result abhorred by ERISA." The court further explained that although the Ninth Circuit has not addressed this issue specifically, a majority of circuits have so held at *24-*25:

Although the Ninth Circuit has not directly decided whether reasonable reliance on a defective SPD is required in order to recover under its terms, three district courts in this Circuit -- including one decision affirmed by the Ninth Circuit -- have held that reasonable reliance is required in order to recover for a claim based on a defective SPD. For example, in *Adams*, which was affirmed by the Ninth Circuit, the district court found "that reasonable reliance is necessary before a plaintiff can recover under an SPD that conflicts with a [plan document]." *Adams v. J.C. Penney*, 865 F.Supp. 1454, 1460 (D. Or. 1994). In *Kaiser Permanente Plan v. Bertozzi*, 849 F.Supp. 692, 698 (N.D. Cal. 1994), the court held that "an employee who wishes to enforce the terms of an SPD, in lieu of conflicting terms contained in the actual plan, must first prove that he or she reasonably relied on those terms." Similarly, in *Berry v. Blue Cross*, 815 F.Supp. 359, 364-65 (W.D. Wash. 1993), the court held that "an employee must have relied on a plan summary in order to prevail in a claim based on the language of the summary." The holdings of *Adams*, *Bertozzi*, and *Berry* requiring reasonable reliance on a defective SPD are also consistent with the long line of Ninth Circuit cases requiring reliance before allowing recovery for alleged ERISA disclosure violations. (Citations and footnotes omitted).

Benefits that have already been accrued are governed by ERISA section 204(g)(1), which states: "[t]he accrued benefit of a participant under a plan may not be decreased by an amendment of the plan." However, the court rejected plaintiffs' argument that defendants "retroactively altered the Plan, and retroactively reduced benefits" because they "reduced benefits already vested in participants and beneficiaries." *Id.* at *30.

This case is again on appeal to the Ninth Circuit so we will soon see if the district court was correct in adopting "reasonable reliance" standard.



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