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ERISA Suit Does Not Require Joinder of Trustees

5/9/2012

By Erin Y. Hisano

Retirement plan participants' breach of fiduciary duty claim under the Investment Company Act (ICA) was dismissed because the participants no longer owned an interest in the plan at issue. The lawsuit was proper under the Employee Retirement Income Security Act (ERISA), however, because ERISA does not require a pre-suit demand or joinder of plan trustees, the 3rd U.S. Circuit Court of Appeals ruled.

On March 31, 2010, Danielle Santomenno, Karen Poley and Barbara Poley sued John Hancock Life Insurance Co. for breach of fiduciary duty under Sections 36(b) and 47(b) of the ICA and Section 502(a) of ERISA for allegedly charging their employer-sponsored retirement plans excessive fees.

The district court dismissed the claims under the ICA because the participants no longer owned an interest in the plan when the court ruled. The district court also dismissed the claims under ERISA because the participants failed to make a pre-suit demand on the plan trustees and to join the trustees in the suit. On appeal, the 3rd Circuit affirmed the district court's dismissal of the ICA claims, but vacated and remanded the dismissal of the ERISA claims.

In analyzing the claims under Section 36(b) of the ICA, the 3rd Circuit asserted dismissal was proper because the ICA requires that the party bringing the suit have continuous ownership of the plan at issue throughout the conclusion of the suit. The court noted that this continuous ownership requirement exists because a claim under the ICA is brought on behalf of the investment company and any recovery belongs to the investment company, not the individuals. In the participants' case, they did not meet the continuous ownership requirement because none of the participants still held an interest in the plan when the 3rd Circuit made its decision in 2012.

The court also held that a breach of fiduciary duty claim under Section 47(b) does not exist because neither the statutory language nor the structure of the ICA allows for a private cause of action.

With respect to the ERISA claim, the court examined the text, structure and purpose of ERISA and held that the participants were not required to make a pre-suit demand on the plan trustees or to join the trustees in the suit. Thus, the dismissal of the ERISA claim was improper, and the 3rd Circuit remanded the case to the district court for trial.

Santomenno v. John Hancock Life Ins. Co., 3rd Cir., No. 11-2520 (Apr. 16, 2012).

Professional Pointer: Requirements for a breach of fiduciary duty claim vary depending on the statute under which claimants file suit. Issues relating to retirement plans and other benefits plans can be complex and are best handled by experienced administrators.

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