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Supreme Court Identifies Remedies Under ERISA for Employees Harmed by Misinformation

Employers providing employees with benefits subject to ERISA have a duty to provide accurate benefit information to employees. As with many areas of ERISA, the definition of "inaccurate" information and the consequences to employers for providing inaccurate information has been unclear, with some federal courts requiring that, in order to be compensated for a breach, employees must prove high standards of harm resulting from inaccurate or misleading information, and other federal courts interpreting ERISA to only require an inaccurate explanation of benefits for employees to recover damages.

The United States Supreme Court addressed this gray area of ERISA in *CIGNA Corp. v. Amara, 131 S. Ct. 1866 (2011)*, finding that employees may be entitled to "appropriate equitable relief" for inaccurate statements about benefits, even if the plan document itself is accurate. In this case, employees sought relief from their employer for benefit statements in their summary plan description and other communications (apart from the actual plan document) misinforming the employees that a change in the structure of their retirement plan was to their benefit. The Court found that misstatements in a summary plan description do not change the terms of a plan document, which means that there was no relief for violations of the terms of the plan available under ERISA § 502(a)(1)(B) (allowing the recovery of benefits due and the enforcement of rights under the terms of the plan).

However, the Court identified a different provision — ERISA § 502(a)(3) — that permits equitable relief not only for violations of plan terms, but also violations of certain ERISA provisions relating to employee protections, including a failure to furnish a summary plan description that is "sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of their rights and obligations under the plan" (ERISA §102(a)), a failure to furnish a new summary plan description adopting a modification or change in the terms of the plan (ERISA §104(b)), and a failure to provide required notice where the plan has adopted a change that provides a "significant reduction in the rate of future benefit accrual" (ERISA §204(h)).

Although the Court declined to articulate the appropriate standard of harm to determine an employee's entitlement to relief, the decision commented that Congress did not intend to impose a rigorous standard of proving harm to obtain relief. The decision identified potential harm to employees, including losing the right to retire early, reducing the employees' benefits to account for survivor benefits, and shifting the risk of falling interest rates to employees, and discussed available remedies to provide the employees with benefits consistent with the information provided to them, including reforming contracts, equitable estoppel, and prevention of unjust enrichment by imposition of a surcharge against the trustee to make the harmed party whole.

CIGNA's Retirement Plan

Until 1998, CIGNA Corporation sponsored a defined benefit plan for employees providing an annuity benefit upon retirement in an amount determined by the employee's salary and length of service. This calculation resulted in an annuity benefit that approached 60 percent of a longtime employee's final salary, or a moderately reduced early retirement annuity at age 55.

In 1998, CIGNA froze the defined benefit plan and implemented a cash balance retirement plan, where employees would accrue benefits with annual contributions from CIGNA equal to 3 to 8.5 percent of the employee's salary, depending on factors including the employee's age and length of service, and annually compounded interest. Under the cash balance plan, retired employees would receive the greater of the amount entitled to under the frozen defined benefit plan as of January 1, 1998, or the amount in his or her individual account under the cash balance plan.

CIGNA Disclosures

In connection with this 1998 change in benefits, CIGNA distributed general communications and summary plan descriptions to introduce the terms of the new plan and inform employees that the defined benefit plan would end on December 31, 1997. Notably, CIGNA informed employees that the new plan would "significantly enhance" and be an "overall improvement" in benefits, providing "steadier benefit growth" on an annual basis, starting with "the full value of the benefit [the employees] earned for service before 1998," and adopted without "cost savings" to CIGNA. In October 1998, CIGNA provided employees with details of the new plan's features, including CIGNA's 3-8.5 percent contribution beginning January 1, 1998, the new interest rate, and the starting balance for employees.

In fact, employees argued that they did not benefit from the new cash balance plan as the CIGNA disclosures represented they would because (1) their right to retire early at age 55 was eliminated, (2) their initial balance was not equal to "the full value of the benefit earned for service before 1998" because the amount was reduced to account for survivor benefits offered under the new cash balance plan, and (3) the plan shifted the risk of falling interest rates from CIGNA to its employees. As a result of this misrepresentation, 25,000 employees sued CIGNA as a class, claiming they were not given proper notice of plan changes that decreased their benefits, in violation of ERISA §§ 102(a) and 104(b) (requiring a plan administrator to provide beneficiaries with summary plan descriptions and summaries of material modifications "sufficiently accurate and comprehensive to reasonably apprise such participants and beneficiaries of their rights and obligations under the plan"), and ERISA § 204(h) (requiring written notice in connection with any amendment to a plan that provides "for a significant reduction in the rate of future benefit accrual").

The District Court ruled against CIGNA, finding that the communications to employees contained misrepresentations in violation of ERISA §§ 102(a), 104(b), and 204(h), and providing the following remedies pursuant to ERISA § 502(a)(1)(B) (allowing plan participants and beneficiaries to "recover benefits due to him under the terms of his plan" in a civil action):

1) To obtain relief, the class proved the necessary presumption of "likely harm" caused by disclosure failures (which was not rebutted by CIGNA), and did not need to prove individual harm.
2) The District Court was open to invalidating the change to a cash benefit plan and reinstating the defined benefit plan. (This relief was not requested by the parties.)
3) The terms of the cash balance plan were reformed to provide the benefits earned under the defined benefit plan as of January 1, 1998, ***plus*** the benefits earned under the cash balance plan on and after January 1, 1998 (instead of the ***greater of*** benefits).

4) CIGNA was to provide benefits to class members in accordance with the reformed cash balance plan benefit definition.

The Second Circuit affirmed the District Court's decision without issuing its own opinion.

Supreme Court Decision

The Supreme Court vacated the decision of the District Court and remanded the case to the Second Circuit for further proceedings consistent with its opinion. The Supreme Court ruled that, in this case, the District Court could not impose equitable remedies under ERISA § 502(a)(1)(B). The Court explained that ERISA § 502(a)(1)(B) allows plan participants and beneficiaries to "recover benefits due to him under the terms of his plan" and does not apply to misleading statements in the summary plan description that are not in the terms of the plan itself. This is because statements in the summary plan description do not alter the terms of the plan; rather, the terms of the plan remain controlling with respect to this type of relief.

Nonetheless, the Supreme Court found that the equitable remedies imposed by the District Court for violations of ERISA §§ 102(a), 104(b), and 204(h) — reforming contracts, equitable estoppel, and prevention of unjust enrichment by imposition of a surcharge against the trustee to make the harmed party whole — are permitted under ERISA § 502(a)(3). ERISA § 502(a)(3) provides that a participant, beneficiary, or fiduciary may "obtain other appropriate equitable relief" for violations of ERISA, in addition to violation of the terms of the plan. The Supreme Court declined to decide the relevant remedies for this case or articulate the standard appropriate for determining whether the class members were injured, but suggested that actual harm, rather than the higher standard of detrimental reliance, is more in line with the ERISA relief intended by Congress.

Implications for Employers

Based on this decision, employers can be assured that the statements made in a summary plan description will not change the terms of a plan. However, the decision highlights the importance of the statements made in a benefit plan's summary plan description, and the defined right of employees to be compensated for such misleading benefit statements that cause financial harm. Employers informing employees about benefits must use care to ensure that the information provided is accurate and not misleading, because failure to do so may require employers to compensate employees with "appropriate equitable relief."

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