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April 2025

Litigation Trend Update

You know the saying: April showers bring...an update to the litigation landscape for retirement plans! This month, we bring you an overview of key litigation updates, examining how new rulings and ongoing legal battles can impact your clients.

Importance of good documentation *(Wallace v. Oak-wood Healthcare, Inc.,* 954 F.3d 879, Sixth Circuit Court of Appeals, 2020): Though this case occurred in the health and welfare plan context, the same reasoning would likely apply to all ERISA-covered plans. In this instance, the plan document did not contain claims procedures or the requirement that the claims process be exhausted before a participant files suit. The SPD, similarly, did not clearly state the claims procedure exhaustion requirements. Though the plan administrator provided notice of the exhaustion requirement in its initial claim denial, the court held that the plan documents' lack of written claims procedures and lack of a written claims exhaustion requirement meant that the participant could bring suit immediately.

This is a great time to remind plan sponsors that they should routinely review all plan documents and SPDs to ensure that they are complete, consistent, and updated timely. Plan sponsors should ensure that claims procedures are well-documented, and that they include claims exhaustion provisions.

Accuracy in communication (*Sullivan-Mestecky v. Verizon Communications Inc.,* 961 F.3d 91, Second Circuit Court of Appeals, 2020): Here, a benefits plan provided life insurance in an amount equal to one year's salary. The participant was told, repeatedly, by a plan representative that her life insurance benefit would be in an amount equal to *twelve* times her salary—and she subsequently brought suit alleging that she was entitled to this greater amount. Verizon, the plan sponsor, attempted to counter by asserting that both the plan document and SPD were clear and, therefore, that the misstatements should not prevail. The court, perhaps surprisingly, did not find that argument determinative. Instead, it held that Verizon may have breached its fiduciary duty of prudence by failing to provide the participant (via the communications of its representatives) with complete and accurate information about her benefits.

Be an asset to your plan sponsor clients by letting them know: clear plan documents and SPDs are good, but may not always be enough. Plan sponsors should remember that actions by vendors may result in fiduciary breaches that are imputed to them.

Forfeiture litigation: There are a number of pending forfeiture litigation matters across the country. These suits generally target plans that permit plan sponsors to choose how forfeitures will be allocated. The general allegations in each follow a similar pattern: (1) deciding how to use forfeitures is a fiduciary decision (2) using forfeitures to offset company contributions is a fiduciary breach as (3) the plan sponsor should have allocated forfeitures to participant accounts instead.

Your plan sponsor clients have likely heard of these suits and have some worry. Best practices for plan sponsors could include: (1) reviewing the plan document for a list of permissible uses of forfeitures, (2) consider amending the plan to "hard wire" in an order of preference and ensure forfeiture decisions are settlor in nature, and (3) spending down the forfeiture account no later than the year after any forfeiture arises.

By Hannah Munn, Partner, Poyner Spruill

Reminders

- April 1, 2025: Deadline to distribute RMDs to participants that became eligible for RMDs in 2024.
- April 15, 2025: Deadline to distribute elective deferrals in excess of the Code Section 402(g) limit.
- April 29, 2025: Deadline for defined benefit plan sponsors of calendar year plans to provide participants with the modified annual notice of the plan's funding status.