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Supreme Court Clarifies/Expands the Availability of Relief for Breach of Fiduciary Duty

ERISA Section 502(a)(2) provides for suits to enforce the provisions of ERISA Section 409. ERISA Section 409 addresses breaches of fiduciary duty that harm any type of employee benefit plan. Based upon a 1985 Supreme Court decision, many courts had concluded that actions under ERISA Section 502(a)(2) protect the entire plan, not the right of individual plan participants. Law suits by plan participants in individual account plans such as 401(k) plans were not permitted because they were for the benefit of the participant, not for the entire plan. Although any award of money damages in such an action would be paid into the plan, courts stated that the individual interests of a plan participant could not serve as a legitimate proxy for the interests of the plan as a whole.

In La Rue v. DeWolff, Boberg & Associates, Inc., a unanimous Supreme Court held that participants in individual account plans could maintain actions under ERISA Section 502(a)(2). It held that “although § 502(a)(2) does not provide a remedy for individual injuries distinct from plan injuries,” that provision “does authorize recovery for fiduciary breaches that impair the value of plan assets in a participant’s individual account.”

The likely impact of the decision will be an increase in actions by plan participants under ERISA Section 502(a)(2). However, as noted in a concurring opinion, the Court did not address the issue of whether, assuming the plaintiff had also brought a cause of action under another section of ERISA, ERISA Section 502(a)(1)(B), (which authorizes actions to recover benefits due under the terms of the plan), such a claim might have precluded an action being brought under ERISA Section 502(a)(2) - an issue with respect to which there is a split among the federal Courts of Appeal. This is important because actions for benefits are subject to ERISA’s requirement that the participant exhaust his administrative remedies and the plan sponsor, under a well drafted plan, is entitled to have its decisions reviewed under an abuse of discretion standard. With actions by participants in individual account plans under ERISA Section 502(a)(2) now permissible, courts will now need to focus on whether an action for benefits precludes a claim for breach of fiduciary duty.

If you have any questions regarding the implications of the LaRue decision for plan fiduciaries, please contact the undersigned.

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