

Supreme Court Dramatically Limits ERISA Plans' Right to Reimbursement

Montanile v. Board of Trustees of Nat. Elevator Industry Health Benefit Plan
(United States Supreme Court)

In a much-anticipated decision that impacts ERISA plans' ability to obtain reimbursement of benefits paid to, and on behalf of, plan participants who recover monetary damages from third parties, the United States Supreme Court ruled on January 20, 2016, that plans cannot recover funds spent by the participant. *Montanile v. Board of Trustees of Nat. Elevator Industry Health Benefit Plan*, 577 U.S. ____ (2016). The Court's 8-1 decision resolves a split among Federal Circuits as to whether a plan participant can avoid his or her obligation to reimburse an ERISA plan by dissipating the funds received from settlement with a third party.

Background

In *Montanile*, Robert Montanile, a participant of the National Elevator Industry Health Plan (the "Plan"), sustained personal injury as a result of an auto accident. After Montanile underwent surgery and obtained medical care for his injury, he filed a lawsuit against the driver of the other vehicle involved in the accident and ultimately settled his claim for \$500,000. From his settlement recovery, Montanile paid fees and costs to his attorney and spent the remaining funds. Montanile did not reimburse the Plan for the \$122,044.02 the Plan paid for Montanile's medical care as a result of the accident.

Six months later, the Plan filed suit against Montanile under ERISA to enforce its right to reimbursement arising from the Plan document. The U.S. District Court for the Middle District of Florida held that the Plan could not obtain reimbursement under ERISA because no settlement funds remained. On appeal, the

Eleventh Circuit Court of Appeals held that settlement funds are "specifically identifiable" even when they are no longer in the participant's possession or control, and a participant could not rely on his or her dissipation of the funds to avoid reimbursing a plan. The Eleventh Circuit therefore ruled that the Plan was entitled to reimbursement of the benefits it paid on behalf of Montanile. Montanile appealed to the Supreme Court, which overturned the Eleventh Circuit and held that settlement funds spent by a participant are nontraceable, and that nontraceable assets are not recoverable under ERISA.

Impact

Prior to the Supreme Court's ruling, the majority of Federal Circuits (First, Second, Third, Sixth, Seventh and Eleventh) held that a participant's dissipation of settlement proceeds was not a viable defense to a plan's claim for reimbursement under ERISA. Under the (prior) majority view, plans enjoyed considerably strong recovery rights in spite of the status of the settlement funds. Conversely, the minority of Federal Circuits (Eighth and Ninth) required ERISA plans to specifically identify the funds in the possession and control of the participant, separate and distinct from the participant's estate, in order to obtain reimbursement from the participant.

Under this view, plans are left without recourse when a participant spends funds prior to fulfilling his or her reimbursement obligations under ERISA.

Protecting an ERISA Plan's Rights

The Supreme Court's surprising adoption of the

minority view operates as encouragement for plan participants to dissipate funds they receive from third party settlements to avoid their reimbursement obligations to the plan that provides them with benefits. Consequently, ERISA plans must be proactive and expedient in having their ERISA plans reviewed and appropriately modified, obtaining executed reimbursement agreements from participants, monitoring participants' potential recovery against third parties, inspecting the status of settlements and payment of settlement funds, and immediately taking action to exercise reimbursement rights under ERISA once a participant agrees to a settlement. In addition, plan administrators must be willing to be more aggressive in monitoring participants' pending claims and pursuing opportunities to secure recovery.

Aronberg Goldgehn has successfully represented ERISA plans in asserting and exercising their rights to reimbursement from settlement funds in Federal Circuits where dissipation has operated as a participant's defense to reimbursement. We are available to advise and assist our clients in their efforts to protect their rights now that the previous minority view is the law of the land.

If you have any questions about this Update, please contact the author listed below or the Aronberg Goldgehn attorney with whom you normally consult:

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