

U.S. Supreme Court Reinstates Army Reservist's "Cat's Paw" Bias Claim Under USERRA

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A group of employees who participated in their employer's 401(k) plan invested a portion of their account in their employer's stock. They sued their employer under the Employee Retirement Income and Security Act (ERISA) when the price of their employer's stock dropped. The employees alleged that their employer had failed to disclose sufficient information about a bad business transaction that the employer had entered into and to monitor the conduct of the plan fiduciaries. Initially, the U.S. Court of Appeals for the Seventh Circuit dismissed a claim of an employee bringing suit who had previously signed a severance agreement with the employer waiving all claims against the employer, including those under ERISA. The employee argued that he could still pursue his claim against under the plan because ERISA prohibited plan fiduciaries from being released from their fiduciary responsibilities. The court held that nothing in ERISA prohibits a fiduciary from obtaining a release for potential claims that had already accrued. It went on to find that the fiduciaries did not violate ERISA in initially selecting their own stock as an investment option under the plan because: (1) the fund was one of many among which the participants could choose; (2) the plan repeatedly warned against the risk of not diversifying their investment choices; and (3) the employer's stock had never performed badly enough to make it an imprudent investment choice. Additionally, the court held the employer and plan fiduciaries were protected under the "safe harbor" provision of Section 404(c) of ERISA against the employee's claims that the employer had failed to disclose information about certain business decisions and to monitor plan fiduciaries. The Section 404(c) safe harbor provision provides protection for plan fiduciaries in certain instances where participants direct the investment of their accounts in a 401(k) plan. The purpose of the Section 404(c) safe harbor provision is to relieve the fiduciary of responsibility for choices made by someone beyond its control. The court held that the plan fiduciaries had no duty to provide plan participants with real time updates on business decisions or to review all business decisions of the company. Based on the court's findings in these cases, employers should ensure they are in compliance with Section 404(c) of ERISA, as it provides protection to 401(k) plan sponsors if their fiduciary decisions are questioned. However, they should be aware that Section 404(c) does not provide protection for the initial fund selection. Additionally, employers should ensure that all severance agreements are well-drafted.

Howell v. Motorola, Inc., Case No. 07-3837 (7th Cir. Jan. 21, 2011)

Lingis v. Dorazil, Case No. 09-2796 (7th Cir. Jan. 21, 2011)

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Topics

ERISA, USERRA, Cat's Paw