

COURT GRANTS PARTIAL SUMMARY JUDGMENT DISMISSING STATUTORY PENALTIES

Hodgson Russ Employee Benefits Newsletter
December 1, 2020

The US District Court of the Southern District of Texas recently granted partial summary judgment, dismissing penalties related to a failure to comply with a request for plan information. In this case, a participant in a company's life insurance plan, died a few months after terminating his employment. His widow was denied a claim for benefits because the employee did not complete forms to convert the life insurance and no premiums were paid following his termination. As part of the employee's widow's lawsuit, she asserted a claim against the plan administrator and the company alleging their failure to provide a copy of the insurance policy and copies of specific telephone recordings related to the matter. Under ERISA, a plan administrator may be subject to statutory penalties of up to \$110 per day for failing to timely provide certain requested plan related documents. The plan administrator, upon written request, must "furnish a copy of the latest updated summary, plan description, and the latest annual report, any terminal report, the bargaining agreement, trust agreement, contract, or other instruments under which the plan is established or operated." In dismissing the claim against the plan based on a failure to provide telephone call records, the court noted that, in the Fifth Circuit, the "other instruments under which the plan is operated" provision has been narrowly interpreted to apply to only formal legal documents that govern a plan. This case highlights an issue common to many plan administrators. That is, knowing what to produce when responding to a request for information. When faced with such a request, plan administrators should consult with their legal counsel to better understand the scope of their obligations. (*Huerta V. Metropolitan Life Ins.*, S.D. (November 2020))

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