

RETIREE'S CASE TO AVOID PLAN RECOUPMENT OF PENSION OVERPAYMENT DISMISSED

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Alan Hesse commenced his monthly retirement benefit from the CNH Industrial U.S. Pension Plan (“Plan”) in 1999. As a result of an internal audit in 2020, the Plan concluded that it had overpaid Hesse by \$15,640. The Plan administrator communicated with Hesse regarding the error and stated its intention to recoup the overpayment by reducing his monthly benefit by \$63.32 per month.

After his appeal to the Plan administrator disputing the overpayment recovery was denied, Hesse filed a lawsuit in federal district court on the basis that the Plan should be estopped by the doctrine of laches from recouping the overpayment. Upon defendant’s filing a motion to dismiss, Hesse recharacterized his state law claims as claims for equitable relief under ERISA §502(a)(3)(B).

Absent from Hesse’s complaint was any allegation that the recoupment of the overpayment was either a violation of ERISA, or of the terms of the Plan. As one of these contentions is required to state a claim for equitable relief under ERISA §502 (a)(3)(B), the court dismissed Hesse’s ERISA cause of action.

The court went on to hold that it was not in a position to formulate federal common law to grant equitable relief to Hesse. Prior Seventh Circuit precedent and the unbending terms of ERISA’s “comprehensive and reticulated” statutory scheme did not provide the court with an opportunity to extend any avenue of relief to Hesse that was unavailable under ERISA’s existing enforcement scheme.

With no basis to proceed under ERISA or federal common law, the court was forced to dismiss the remainder of the case for lack of subject matter jurisdiction. Finally, the court held that because Hesse could not have brought his claims as alleged in his complaint under ERISA, his state law claims were not preempted by ERISA based on U.S. Supreme Court precedent.

Tax qualified plans must be operated in accordance with their terms, and pension plan overpayments are evidence that a participant has received more than is provided for under the terms of a plan. Plan administrators in such situations can contact legal counsel about following the available avenues for correcting overpayments under the IRS’s Employee Plans Compliance Resolution System (“EPCRS”). (*Hesse v. Case New Holland Indus., Inc.*; E.D. Wis., 2021).

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