

COURT UPHOLDS MANDATORY ARBITRATION AND COST SHARING FOR RETIREMENT PLAN CLAIMS

Luciano v. TIAA-CREF (July 2016)

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A New Jersey district court ruled that an employee's widow must submit her claim for survivor benefits in her husband's retirement plan to binding arbitration and must pay half the costs. The Internal Revenue Code Section 401(a) retirement plan sponsored by the husband's employer contains a mandatory arbitration provision compelling final and binding arbitration for any claim that is again denied after the original benefit denial is reviewed by the plan administrator. The arbitration provision also requires the claimant and the plan to "equally share the fees and costs of the Arbitrator."

The plaintiff-widow in this case had challenged the calculations of the spousal survivor benefit made by the plan administrator following her husband's death. After her appeal of the initial decision was denied, the widow filed a putative class action challenging the mandatory arbitration provision as invalid "because its cost-splitting provision unduly inhibits and hampers the initiation and processing of claims for benefits" in violation of ERISA. The court disagreed, holding that the arbitration process constitutes "a reasonable opportunity" for a "full and fair review by the appropriate named fiduciary" in compliance with ERISA. Although the court ruled that the plan may compel arbitration of the widow's claims, however, it also noted that the widow would be permitted to argue in future court proceedings that the cost-splitting provision "would deny her a forum to vindicate her statutory rights."

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