NO BREACH OF FIDUCIARY DUTY FOR PLAN COMMITTEE AND STABLE VALUE FUND MANAGER

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In another recent example of qualified retirement plan participants suing for a breach of fiduciary duty involving the decision to invest plan assets in a particular investment fund, the federal district court in Rhode Island dismissed a lawsuit filed against an employer's plan fiduciary committee (the "Committee") and the investment manager of the retirement plan's stable value fund (the "Fund Manager"). The plaintiffs in the case alleged that the Committee and the Fund Manager breached their ERISA fiduciary duties when the Fund Manager allegedly invested too much of the plan's stable value fund assets in "ultra-short-term cash management funds that provided extremely low investment returns," and the Committee failed to monitor and supervise the Fund Manager. In making the allegations with respect to the plan's stable value fund (the "Plan Fund"), the plaintiffs relied primarily on comparisons in the investment characteristics of the Plan Fund versus other available stable value funds; however, the federal district court granted the defendants' motion to dismiss the plaintiffs' complaint. In reaching her decision in this case, the district court judge held that a hindsight comparison of the Plan Fund's investment allocation with industry averages was not sufficient to show the Fund Manager failed to act with the level of prudence required by ERISA – it is the conduct of the fiduciary, and not merely the performance of the investment, that is determinative of prudence. The judge also held that the Plan Fund "was invested in conformance with its stated objective" of seeking to preserve capital while earning returns greater than money market funds provide. *Barchock v. CVS Health Corp.*, D.R.I. 2017