

SECOND CIRCUIT UPHOLDS DISMISSAL OF LAWSUIT INVOLVING PUNITIVE ERISA PENALTIES

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Following a motor vehicle accident, a participant in a hospital's health insurance plan covered by the Employee Retirement Income Security Act of 1974 ("ERISA") made repeated requests for documents pertaining to her plan beginning in 2012. She did not receive all the requested documents until sometime in 2015, which is well after the 30-day period within which a plan administrator generally must satisfy requests for ERISA plan documents. In a lawsuit filed by the participant, she alleged that the hospital and third-party administrators for the plan (the defendants) should be subject to ERISA-prescribed penalties for failing to timely comply with her requests for plan documents. A Federal district court in Connecticut, however, dismissed her suit on motion, concluding that it was time-barred under Connecticut's one-year statute of limitations for actions to recover civil forfeitures – the lawsuit was commenced approximately 14 months after the participant's claim accrued in 2014. The participant appealed the decision of the district court to the Court of Appeals for the Second Circuit, and the Second Circuit has upheld the district court's ruling that dismissed the lawsuit.

Because ERISA does not prescribe a limitations period for the ERISA claim brought by the participant in this case, the applicable limitations period is the one specified in the most analogous state limitations statute. On appeal to the Second Circuit, the participant argued that the district court's reliance on Connecticut's one-year statute of limitations for actions to recover civil forfeitures was not proper, and that the proper statute of limitations was either Connecticut's six-year statute of limitations for breach of contract or the three-year statute of limitations for unfair trade practice violations in Connecticut. The Second Circuit disagreed, holding that the most analogous state statute of limitations in Connecticut is indeed the one-year statute of limitations for actions to recover civil forfeitures. The Second Circuit noted that claims based on breach of contract or unfair trade practice violations in Connecticut, unlike the claim for the ERISA penalty for late disclosure, require a showing of actual damages. In making its decision, the Second Circuit agreed with the Department of Labor and several other Circuit Courts of Appeal, and expressly ruled for the first time that the relevant ERISA penalty the participant was seeking was punitive (rather than remedial) in nature because the participant was not required to demonstrate actual damages stemming from the late delivery of plan documents, and because the amount of the fine under ERISA is discretionary and "is

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meant to punish an administrator’s failure to follow statutory duties.”

Despite the favorable outcome for the plan sponsor and the third-party administrators, this case highlights the fact that timely responses to requests for ERISA plan documents is an important facet of plan administration and can avoid ERISA penalties and undesirable litigation. *Brown v. Rawlings Financial Services, LLC* (2nd Circuit 2017).

