

THE SECOND CIRCUIT CONSIDERS ATTORNEY'S FEE AWARD UNDER ERISA IN SETTLEMENT CONTEXT

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In *Hardt v Reliance Standard Life Ins. Co.*, 130 S. Ct. 2149 (2010), the United States Supreme Court rejected the "prevailing party" standard for awarding attorney's fees under ERISA. Instead, a party moving for an attorney's fee award must demonstrate "some degree of success on the merits." But what exactly does this standard mean? Although not required, a favorable court judgment will qualify while a "trivial success" or a "purely procedural victory" will not pass muster. But how will these terms be interpreted and how will the standard be applied to the myriad of potential litigation outcomes which fall somewhere in the gray area in between?

The Second Circuit Court of Appeals recently applied this standard in the context of a voluntary settlement in *Scarangella v. Group Health, Inc.* This case involved a claim for medical benefits under an ERISA plan which was insured by Group Health Insurance, Inc. ("GHI") and administered by Village Fuel. After substantial medical expenses were incurred by the wife of Nicholas Scarangella, a Village Fuel employee, GHI made a determination that Scarangella and his family did not satisfy the eligibility requirements. GHI denied reimbursement and purported to retroactively rescind the policy. Scarangella filed an action for benefits under ERISA against Village Fuel and GHI. The two defendants filed cross claims for restitution which were dismissed by the District Court on the grounds that money damages are not available under ERISA because they are not equitable in nature. GHI also asserted claims for rescission and reformation of its policy. The District Court denied Village Fuel's motion for summary judgment with respect to these claims because material facts were still in dispute. In so doing, the District Court expressed some skepticism and concerns regarding GHI's remaining claims. Thereafter, GHI and Scarangella reached a settlement and voluntarily dismissed all remaining claims, including those against Village Fuel. Village Fuel moved for attorney's fees but the District Court found that the plan administrator was ineligible because the dismissal of GHI's restitution claim was procedural in nature and the voluntary dismissal of the remaining claims against Village Fuel lacked the "judicial imprimatur" necessary to qualify as a litigation success.

On appeal, the Second Circuit determined that the District Court erred in interpreting the standard set forth by the Supreme Court in *Hardt*. The Second Circuit found that Village Fuel obtained at least "some degree of success on the merits" through the dismissal of GHI's restitution claim and it found

that the District Court erred in classifying this success as merely a procedural victory. The Second Circuit further found that a favorable court judgment is not required to satisfy the threshold for awarding attorney’s fees under ERISA. Instead, the Court stated that “the catalyst theory remains a viable means of showing that judicial action in some way spurred one party to provide another party with relief, potentially amounting to success on the merits.” As a result, where parties “have received a tentative analysis of their legal claims within the context of summary judgment, a party may be able to show the court’s discussion of the pending claims resulted in the party obtaining relief.” The Circuit Court found that a question of fact existed as to the reason for GHI’s dismissal of the remaining causes of action against Village Fuel and remanded to the District Court to make a determination regarding this question and to determine a reasonable amount of attorney’s fees, if any, to be awarded to Village Fuel.

This case provides guidance regarding how this standard will be applied in the context of voluntary settlements between the parties. In evaluating if and when to settle a case, one factor that the parties should be aware of is the potential for an award of attorney’s fees under ERISA when a settlement and voluntary dismissal of claims occurs following a summary judgment or other decision on the merits.

MEET THE TEAM



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