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Certiorari Denied in Case of Delayed Distribution of Benefits

Though limited to the D.C. Circuit, Stephens v. US Airways *now stands as a warning that delayed payouts of ERISA benefits may draw claims for interest—unless those delays are tied to administrative processes.*

Plan sponsors and plan administrators are encouraged to review their processes for calculating and distributing terminating participants' benefits from ERISA plans following the U.S. Supreme Court's denial of the Pension Benefit Guaranty Corporation's certiorari petition in *Stephens v. US Airways Group, Inc.*, 644 F.3d 437 (D. D.C., July 15, 2011); *cert. denied*, 2012 U.S. LEXIS 2627 (April 2, 2012).

Background

The US Airways Pension Plan (the Plan), offered to US Airways pilots, allows terminating participants to elect to receive their distributions in the form of an annuity or in a single lump-sum payment. Monthly annuity payments commence on the first day of the month beginning after a pilot's date of retirement; lump-sum distributions are not paid until 45 days after the first day of the month beginning after a pilot's retirement date.

The pilots bringing the complaint had retired and elected lump-sum distributions. Each received his or her distribution 45 days after the first of the month following his or her retirement, but US Airways did not pay interest during the 45-day delay. The pilots sued, arguing that US Airways' refusal to pay interest during the 45-day period violated the actuarial equivalence requirement of ERISA § 204(c)(3) because the delay caused the lump-sum distribution payments to be worth less than the annuities the pilots would have received under the Plan.

The Majority Opinions

In a split decision, the majority of a three-judge panel of the U.S. Court of Appeals for the District of Columbia found that the Plan's distribution policy delaying payments for lump-sum distributions *did not* violate ERISA. The court held that US Airways accurately calculated the pilots' lump-sum distributions to be the actuarial equivalent as of the annuity start date, thus avoiding a violation of ERISA § 204. Relying on Internal Revenue Service regulations permitting only "reasonable" delays in payment, however, the majority held that US Airways unreasonably delayed distributing lump-sum payments to the pilots, and the pilots were entitled to interest.

The majority opinion concluded that plan administrators can demonstrate reasonableness where the delay is related to the administrative process for calculating benefits. Here, however, the court found that the 45-day delay by US Airways was unrelated to the administrative calculation process, which US Airways admitted only took 21 to 30 business days to complete. Because US Airways could not tie the entire 45-day period to administrative tasks, the court found that US Airways unreasonably delayed payment of benefits, and the pilots were entitled to interest for the 45-day period.

Judge Brett Kavanaugh, concurring in the judgment only, opined that the 45-day delay by US Airways violated the actuarial equivalency requirements of ERISA. It was Judge Kavanaugh's opinion that, because the lump-sum distribution check was not distributed on the same day that annuity payments were scheduled to start, the lump-sum distribution was worth less than annuity payments. He believed the pilots were entitled to the difference between the value of the lump sums at the time paid and the value of those lump sums 45 days earlier on the annuity start date.

The Dissenting Opinion

In her dissenting opinion, Judge Karen Henderson argued that interest was not warranted and that the 45-day delay was reasonable because the Plan required benefits be calculated based on the pilots' "Final Average Earnings." Judge Henderson pointed out that because pilots are paid hourly and pay can fluctuate dramatically based on hours logged, pay differentials, and other adjustments, the three- to four-week period for calculating lump-sum distributions could not begin until the retiring pilot received his or her final check on the 18th of the month following retirement. Factoring in the delay for calculating Final Average Earnings and adding the three- to four-week period to calculate the lump-sum distribution, Judge Henderson found ample support for the 40- to 45-day administrative period US Airways took to calculate and distribute lump-sum benefit payments.

The dissent also disagreed with the majority about the amount awarded as interest. Because the court agreed that US Airways acted reasonably in processing distributions up to the 30-day mark (there was no dispute that it took 21 to 30 days to calculate the lump-sum benefit), the dissent opined that plaintiffs should be entitled to no more than 15 days' interest.

Practical Considerations

Although the *Stephens* decision is currently limited to the D.C. Circuit, its implications are far reaching should other circuits subscribe to the majority or concurring opinions. While this does not mean that plan administrators should rush benefit calculations, plan administrators are now on notice that any delay in distributing benefits beyond the time objectively required for necessary administrative functions and tasks could subject plan sponsors or administrators to claims for interest on distributions.

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