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# Supreme Court Reaffirms Limits on Benefit Plan Subrogation Claims

By Douglas J. Ellis / Jan 25, 2016

In its latest case examining the scope of employee benefit plan subrogation rights, the U.S. Supreme Court held that a benefit plan cannot enforce its claim for reimbursement of expenses from a participant's settlement proceeds where the participant spends all of the proceeds and, as a result, there is no specific, identifiable fund against which the plan can enforce its claim. The case, *Montanile v. Board of Trustees of the National Elevator Industry Health Benefit Trust*, generally follows, and reaffirms, the Court's prior decisions in this area. However, the practical effect may force benefit plans to be more aggressive in enforcing subrogation rights before participants have an opportunity to spend settlement funds.

In this case, a participant in an employee benefit plan was injured in an accident caused by a drunk driver. The plan paid medical costs on behalf of the participant in the amount of \$121,044. Pursuant to a subrogation provision in the plan, the participant signed an agreement with the plan agreeing to reimburse it for the expenses out of any recovery he obtained through legal action or settlement.

The participant eventually obtained a settlement of \$500,000 in connection with the accident, and the plan demanded reimbursement of its expenses. The participant's attorney disputed the plan's entitlement and, after some negotiation, informed the plan that the settlement funds would be distributed to the participant unless the plan objected within 14 days. The plan did not respond within 14 days and the funds were disbursed to the participant. Six months later, when the plan sued the participant for recovery under the reimbursement agreement, the participant argued that he had spent almost all of the settlement funds and the plan was barred from enforcing its claim against his general assets. The lower courts rejected this argument and found that the plan could be reimbursed from the participant's general assets.

In an 8-1 decision, the Supreme Court reversed the lower courts and held that the plan's equitable claim for reimbursement can only be enforced against a specific, identifiable fund, and the plan loses its claim if the participant dissipates that fund by spending it on non-traceable items like food or travel. The decision is based on the language in Section 502(a)(3) of ERISA, which authorizes plan fiduciaries to bring claims "to obtain appropriate equitable relief" in order to enforce the terms of an ERISA plan. The Court's prior cases established that whether the relief sought qualifies as "equitable relief" is determined by looking at how equitable claims were typically enforced in special courts of equity that existed prior to 1938. Employing this historical analysis, the Court concluded that the plan's attempt to enforce its reimbursement claim against the participant's general assets because he had already spent most of the settlement funds was not a form of relief typically available in a court of equity. Consequently, the decision in favor of the plan was reversed and the case was returned to the trial court to determine whether any of settlement proceeds had not been spent or could be traced to other identifiable property or assets of the participant.

While not surprising based on the Court's prior ERISA subrogation cases, this case may force benefit plans to change how they protect and enforce their reimbursement claims. The Court's opinion observes that the plan could have recovered its reimbursement claim if it had timely objected to the distribution of the settlement funds or quickly filed suit against the participant as soon as the funds were distributed. While correct, close monitoring of settlement fund distributions and a "race-to-the-courthouse" mentality will likely increase a plan's administrative costs significantly and impose burdens on participants as well. In light of the *Montanile* decision, benefit plan sponsors and administrators should review their subrogation provisions and procedures and revise them appropriately to best protect the plan's ability to enforce reimbursement claims.

If you have any question regarding plan subrogation rights or reimbursement claims generally, please contact Doug Ellis at [dellis@clarkhill.com](mailto:dellis@clarkhill.com) | (412) 394-2367; Nancy Famam at [nfamam@clarkhill.com](mailto:nfamam@clarkhill.com) | (248) 530-6222; Kristi Gauthier at [kgauthier@clarkhill.com](mailto:kgauthier@clarkhill.com) | (480) 684-1300; Ed Hammond at [ehammond@clarkhill.com](mailto:ehammond@clarkhill.com) | (248) 988-1821; or another member of Clark Hill's Labor and Employment Practice Group.