

Bailey Glasser Defeats Motions To Dismiss And Transfer On Behalf Of Nation Safe Drivers Employees

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On July 21, Judge Colm F. Connolly, US District Court for the District of Delaware, denied three individual defendants' motions to dismiss for lack of personal jurisdiction or to transfer venue to the US District Court for the Southern District of Florida, in *Fink v. Wilmington Trust, N.A., et al.* Judge Connolly ruled that because the Employee Retirement Income Security Act (ERISA) provides nationwide services of process and the defendants reside and do business in the United States, the District of Delaware could exercise personal jurisdiction over them.

In declining to dismiss the case, he rejected the defendants' novel argument that the Third Circuit Court of Appeals' longstanding "national-contacts test" applied only to foreign defendants, and not to American defendants. He also rejected the defendants' argument that a plaintiff's choice of forum deserves "little weight," agreeing with the plaintiff that her forum choice should be given "paramount importance." Judge Connolly denied the motion to transfer to the Florida court because the defendants did not demonstrate that the relevant factors weighed strongly in favor of transfer.

The lawsuit claims that Wilmington Trust, the trustee for the Nation Safe Drivers Employee Stock Ownership Plan (ESOP), caused the ESOP to purchase \$342 million of Nation Safe Drivers stock for more than fair market value, violating federal pension law in the ERISA statute. The lawsuit also alleges that the selling shareholders in the ESOP stock transaction are liable for participating in ERISA-prohibited transactions and in Wilmington Trust's breaches of fiduciary duty.

The plaintiff is represented by Bailey Glasser ERISA litigation attorneys Gregory Y. Porter, Ryan T. Jenny, David A. Felice, and Patrick O. Muench. Co-counsel include Daniel Feinberg and Todd Jackson of Feinberg, Jackson, Worthman & Wasow LLP. Bailey Glasser's ERISA practice represents participants in many ESOP lawsuits.

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Practice Areas

ERISA, Employee Benefits & Trust Litigation