

Bailey Glasser ERISA Team Files Amicus Curiae Brief for Public Justice

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Representing Public Justice, P.C.—a national public interest advocacy organization dedicated to pursuing justice for the victims of corporate and governmental abuses—Bailey Glasser lawyers have filed an amicus curiae brief on the important issue of whether arbitration clauses imposed on ERISA benefit plan participants may prohibit plan-wide relief, limiting arbitration relief to that owed to the individual plan participants bringing a claim. In *Smith v. Board of Directors of Triad Manufacturing, Inc., et al.*, which is pending on appeal before the US Court of Appeals for the Seventh Circuit, Public Justice supported the position of the plaintiff who had prevailed before the US District Court for the Northern District of Illinois in challenging such a clause.

Public Justice argued that individualized arbitration will result in conflicting resolutions of fiduciary breach claims affecting ERISA plans as a whole, as there may arise dozens, hundreds, or even thousands of individual arbitration claims concerning the same fiduciary conduct in managing an ERISA plan. That would thwart ERISA's fundamental principle of consistent and uniform application of fiduciary standards. Addressing issues raised under the Internal Revenue Code, Public Justice also explained that individualized arbitration threatens plan disqualification and disparate tax treatment of plan participants and beneficiaries. In cases involving private company employee stock ownership plans (ESOPs), conflicting arbitration decisions as to the fair market value of employer stock would risk massive tax penalties for employers and employees. That cannot be squared with ERISA or the Code.

Public Justice is represented by Bailey Glasser partners Gregory Y. Porter and Ryan T. Jenny, as well as Feinberg, Jackson, Worthman & Wasow attorney Dan Feinberg.

Attorneys

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Practice Areas

ERISA, Employee Benefits & Trust Litigation