

# Bailey Glasser Wins Class Certification on Behalf of The Bradford Hammacher Group, Inc. Employee Stock Ownership Plan's Participants

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Current and former employees of The Bradford Hammacher Group, Inc. scored a victory recently when Federal District Judge Gary Feinerman granted class certification of the claims brought by Artur A. Nistra, a participant in the company's employee stock ownership plan. On behalf of other plan participants, Mr. Nistra alleges that the trustee of The Bradford Hammacher Group, Inc. Employee Stock Ownership Plan ("ESOP"), Reliance Trust Company, violated the Employee Retirement Income Security Act ("ERISA") when it caused the ESOP to purchase company stock at above fair market value in 2013. Mr. Nistra argues that Reliance Trust, a fiduciary of the ESOP, is liable for the overpayment made by the ESOP to the previous shareholders.

In opposition to class certification, Reliance Trust argued that the suit could be prosecuted more efficiently as a derivative action than as a class action. Judge Feinerman rejected Reliance Trust's argument, writing in his opinion that "Nistra need not demonstrate superiority to obtain certification under Rule 23(b)(1)(B)," and that under Supreme Court precedent in *Shady Grove Orthopedic Assocs. v. Allstate Ins. Co.*, 559 U.S. 393 (2010), "the court cannot deny certification simply because a preferable procedural vehicle may exist." Accordingly, Judge Feinerman granted class certification under Federal Rule of Civil Procedure 23(b)(1)(B).

Artur A. Nistra and the class are represented by Bailey Glasser attorneys Greg Porter, Ryan Jenny and Patrick Muench. Joining in the representation are Robert Izard and Douglas Needham of Izard, Kindall & Raabe. The case is pending in the U.S. District Court for the Northern District of Illinois, Case Number 16-cv-04773.

BAILEY GLASSER WINS CLASS CERTIFICATION ON BEHALF OF THE BRADFORD  
HAMMACHER GROUP, INC. EMPLOYEE STOCK OWNERSHIP PLAN'S PARTICIPANTS

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## **Practice Areas**

ERISA, Employee Benefits & Trust Litigation