

# ERISA Claims Against ESOP Trustee and Selling Shareholder Survive Motion to Dismiss

02.04.2022

In a victory in protecting our clients' hard-won pension funds, Bailey Glasser lawyers Gregory Porter, Ryan T. Jenny, Patrick O. Muench, and Patricia Kipnis defeated a motion to dismiss a lawsuit brought against Prudent Fiduciary Duties Services and its owner Miguel Paredes. This lawsuit alleges the defendants acted in breach of their statutory and fiduciary duties in engaging in transactions to the detriment of the World Travel, Inc. Employee Stock Ownership Plan (ESOP).

Judge Harvey Bartle III, of the U.S. District Court for the Eastern District of Pennsylvania, in *Ahrendsen, et al. v. Prudent Fiduciary Services, LLC, et al.* (Case No. 21-2157), ruled that Prudent Fiduciary Services and its owner Miguel Paredes, who served as trustee of the World Travel, Inc. Employee Stock Ownership Plan (ESOP), must face a lawsuit brought by Plan participants. The lawsuit claims the trustee caused the ESOP to purchase World Travel stock for \$200,573,217, which was more than fair market value, violating federal pension law. In denying the motion to dismiss, the court held the Plaintiffs' allegations were sufficient to state claims that the trustee engaged in prohibited transactions and breached fiduciary duties in the ESOP transaction. Judge Bartle significantly rejected the trustee's argument that the plaintiffs were required to meet a more stringent pleading standard for fraud claims, which did not apply to the fiduciary claims pleaded. The Court also sustained the claim against a selling shareholder who was alleged to have been centrally involved in the transaction and the financial projections underlying the transaction.

"We look forward to discovery proceedings and further litigation disclosing prohibited financial transactions which harmed our clients" said Gregory Porter, Bailey Glasser's ERISA and ESOP Practice Group Leader. "We will not stand by doing nothing while pension funds are compromised by financial decisions that do not honor or protect the best interests of retirees."

The plaintiffs are represented by Bailey Glasser ERISA litigation partners Gregory Y. Porter, Ryan T. Jenny, Patrick O. Muench, and Patricia Kipnis. Their co-counsel at Cohen Milstein Sellers & Toll PLLC are lawyers Michelle Yau and Mary Bortscheller. Bailey Glasser's ERISA practice represents participants in many ESOP lawsuits and has been vigilant and victorious in their work, including before the United States Supreme Court.

## **Attorneys**

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## **Practice Areas**

ERISA, Employee Benefits & Trust Litigation