

## Lonie Hassel weighs in on Supreme Court case *Metlife v. Glenn*

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On April 23, 2008, the U.S. Supreme Court heard oral arguments in *MetLife Insurance Co. v. Glenn*. Lonie Hassel believes the ramifications of the case may be more subtle for employee benefits plans than conventional wisdom holds.

The Supreme Court will rule on this case by the end of June and could announce a decision as early as Monday, June 9, 2008. Hassel specializes in advising ERISA-covered and public employee plans on fiduciary issues and both defends and prosecutes individual and class actions involving fiduciary breach and benefit claims.

### **What is at issue in this case?**

At issue is whether and how a court will consider the fact that the same entity that funds a benefit plan also decides a participant's claim for benefits under the plan. Some courts have viewed this dual role as a conflict of interest that requires a more heightened standard of review of the benefit claim decision than otherwise would be required.

### **Why should retirement plan administrators care about this case?**

Under current law, if the entity that funds the plan also decides claims for benefits under the plan, the standard of review of a benefit claim will vary, even though the facts are the same, depending on the court that reviews the benefit claim. The Supreme Court's decision in this case should provide a more uniform standard throughout the country.

### **Might a decision in favor of Glenn affect the business practices of dual-role administrators?**

If the Court determines that the decisions of dual-role administrators give rise to an inherent conflict of interest and are subject to a significantly less deferential standard of review, some plan sponsors could change their plans to provide for a decision maker different from the entity that funds the plan. This could be an unrelated, third party administrator, for example. If the Court reaches a contrary conclusion, plan sponsors will be free to adopt a dual-role administrator arrangement without the risk of a

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less deferential standard of review.

**What is significant about the brief filed by the Bush Administration supporting Supreme Court review?**

The Solicitor of Labor takes a moderate approach, arguing that the fact that a decisionmaker has dual roles should be a factor in determining whether there is a conflict. Further, the existence of an underlying conflict should not require *de novo* review, but should be taken into account in the court's review, requiring more careful scrutiny as warranted by the facts of the case.

**What could be the impact of MetLife v. Glenn?**

A ruling in this case should lead to more uniform decisions on employee benefit claims where facts are similar by establishing the standard of review to be used by courts in reviewing benefit claim decisions made by dual-role administrators.

**Are there any ramifications for employers should the Supreme Court side with the "inherent conflict of interest" standard used by the 6th U.S. Circuit Court of Appeals?** Plan sponsors could choose to change their plan administration process to avoid the consequence of the stricter standard of review that could be required based on an "inherent conflict of interest."