

Publications

# 401(k) Fee Cases: United Technologies Prevails in Second Circuit; Eighth Circuit Reinstates Wal-Mart Lawsuit; Caterpillar Settles

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Two additional appellate decisions recently were issued in the 401(k) fee cases. On December 1, the Second Circuit affirmed the entry of summary judgment in favor of United Technologies on the merits of the plaintiffs' claims. *Taylor v. United Technologies Corp.*, 2009 WL 4255159 (2d Cir. Dec. 1, 2009). Running opposite to the other appellate court rulings in favor of defendants, the Eighth Circuit on November 25 reinstated the putative class action filed by a participant in Wal-Mart's 401(k) plan. *Braden v. Wal-Mart Stores, Inc.*, — F.3d — (8th Cir. 2009). The United Technologies and Wal-Mart decisions come in the wake of the recently announced \$16.5 million settlement of the fee lawsuit involving Caterpillar, Inc.'s 401(k) plans. The attached memo provides further information on these developments.

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