

Publications

# Canadian Court Rejects Multiemployer Plan's ERISA Controlled-Group Liability Claims

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A trial court in British Columbia recently issued a decision rejecting the application of ERISA's controlled group rules in connection with withdrawal liability claims asserted by the United Mine Workers of America 1974 Pension Plan and Trust ("Plan"). (*Walter Energy Canada Holdings, Inc.*, 2017 BCSC 709). The court held that ERISA cannot be applied to hold Canadian entities liable for multiemployer withdrawal liability simply because those entities are owned by a common parent. Rather, the court found that Canadian law, which recognizes the distinct legal personality of a corporate entity and generally does not hold shareholders liable for an entity's debts, governs the Plan's claims. The decision marks one of the few instances to date that a court has analyzed ERISA's reach across the U.S. border, and may make it more difficult for multiemployer plans and the PBGC to seek payment from foreign entities of liabilities associated with underfunded multiemployer and single employer plans. Please see the attached memo for further information.