

Publications

How The ERISA Landscape May Shift This Year

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2021 was another busy year for litigation under the Employee Retirement Income Security Act, with more than 125 new ERISA class actions filed — more than were filed in 2018 or 2019, but down from the all-time high in 2020, which saw more than 200 class actions filed for the first time in the 45-year history of the statute.

As 2022 begins, several key issues working their way through the courts are likely to reshape the landscape of ERISA litigation.

Within the next few months, the U.S. Supreme Court will weigh in for the first time on the pleading standard for challenges to excessive fees in retirement plans.

By contrast, at least for the time being, the Supreme Court does not appear interested in reviving stock drop lawsuits.

At the circuit court level, there were important new decisions in 2021 regarding the enforceability of arbitration agreements and class action waivers under ERISA, and the U.S. Court of Appeals for the Third Circuit agreed to hear an important interlocutory appeal regarding whether defined contribution plan participants can challenge investment options in which they were not invested.

And there continues to be a steady flow of health plan-related lawsuits in several areas, including with respect to Consolidated Omnibus Budget Reconciliation Act notices and mental health parity.

In this *Law360* article, Groom's [Lars Golumbic](#), [William Delany](#), and [Samuel Levin](#) provide their expert perspectives on trends that persisted through the courts in 2021 and how these trends will structure and restructure ERISA litigation in 2022 and beyond.

[Click here](#) to read the article.