

Publications

Plan Sponsor Fee Litigation Cases on the Rise

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PUBLISHED

11/01/2017

SERVICES

Litigation

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- Health Services Litigation

Over the past year an ever-increasing number of lawsuits have been filed against plan sponsors alleging claims of “excessive fees” with regards to defined contribution retirement plans. In particular, the lawsuits allege excessive or hidden fees, improper selection or monitoring of investment options, and revenue sharing and other alleged self-dealing transactions with respect to defined contribution plans. These lawsuits are almost always structured as class action suits so the potential liabilities are enormous. This year has been an active year for excessive fee cases as more than 30 cases have been filed across almost every circuit in the country. In comparison, over the past decade, there were only about 80 ERISA excessive-fee cases filed across the country.

There are three main types of excessive fee litigation:

1. Excessive fee litigation involving lawsuits against large corporate plan sponsors challenging fees and expenses associated with employee plans.
2. Excessive fee litigation involving lawsuits against financial institutions who also happen to be plan sponsors.
3. Excessive fee litigation involving university-sponsored 403(b) plans.

This article examines each of these three types of excessive fee lawsuits. Please see the article for details.

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