

CLIENT ACTION BULLETIN

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CAB 08-14

U.S. Supreme Court's Rulings on Employee Benefits, Employment Practices

SUMMARY The U.S. Supreme Court on June 19 handed down employee benefits-related decisions, along with rulings affecting employment practices. The Court's decisions involve dual-role benefit plan administrators, age discrimination, and speaking out against union organizing.

DISCUSSION *MetLife Insurance Co. v. Glenn (No. 06-923)*

In *MetLife*, the Court concluded that an ERISA-covered plan administrator who performs a dual role—both deciding the validity of a benefits claim and paying the claim—operates under a conflict of interest. MetLife argued that a company that evaluates and pays claims does not operate under a conflict of interest that must be weighed on judicial review. The plaintiff argued that there is an inherent conflict of interest that courts cannot ignore in deciding whether an administrator has abused its discretion in denying a claim.

The plaintiff, Wanda Glenn, originally filed an ERISA claim in a federal district court against MetLife, claiming her disability benefits were wrongfully denied. The district court sided with MetLife, but on appeal, the U.S. Court of Appeals for the Sixth Circuit reversed the ruling, finding that MetLife operated under a conflict of interest because it made eligibility determinations and paid benefits.

The Decision: The Supreme Court's 6-3 decision upheld the Sixth Circuit's ruling. Although the Court decided that a conflict of interest exists in the case of dual-role ERISA plan administrators, it did not construct a formula or set of exact rules for determining the weight to give that fact. Instead, the Court said each case would have to be considered on its own merits, with courts deciding whether a denied benefits claim had been accurately assessed.

According to the decision, this conflict of interest is "a factor" that courts should consider in reviewing a denied claim. Thus, the determination of a benefit denial should be reached by weighing all the factors together, including the conflict of interest. Referencing ERISA, the Court emphasized the fiduciary role of plan administrators and their responsibility to act in the best interests of plan participants.

Kentucky Retirement Systems v. EEOC (No. 06-1037)

In *Kentucky Retirement Systems*, the Court ruled that the state retirement plan's provisions that boost disability pension benefits to workers who become disabled before reaching the plan's normal retirement age do not violate the Age Discrimination in Employment Act (ADEA). The Equal Employment Opportunity Commission (EEOC) argued that the Kentucky Retirement Systems unlawfully put older workers at a disadvantage when calculating the retirement benefits owed to disabled workers. The Kentucky Retirement Systems said that its plan, which provides richer benefits to employees who are disabled at a younger age (i.e., before they qualify for normal retirement benefits) for workers in hazardous jobs helps the state recruit employees to take on the dangerous work of the police and fire departments. The disparate treatment is designed to compensate workers disabled before age 55 for the remaining years of service they would have had at retirement had they not been injured.

The plaintiff, Charles Lickteig, who was 61 years old with 18 years of service when he was disabled, had already qualified for normal retirement benefits. In accordance with the terms of the plan, Lickteig received his normal retirement benefits, but no additional disability benefits. The EEOC brought suit on Lickteig's behalf, charging that had he been disabled before reaching normal retirement age, Lickteig would have been credited with additional years of service, which would have resulted in his receiving richer retirement benefits. The federal district court ruled in favor of the Kentucky Retirement System; on appeal, the U.S. Court of Appeals for the Sixth

Circuit initially affirmed the ruling, but on reconsideration, concluded that the plan violated the ADEA.

The Decision: The Court's narrow (5-4) decision reversed the appellate court, finding that the disparities in the retirement system's treatment of disabled workers were not "actually motivated" by age. The Court said the Kentucky plan was an effort to provide disability benefits on a par with normal retirement benefits by adding unearned years of service for workers in hazardous jobs who become disabled before reaching retirement age. The minority opinion criticized the majority ruling, saying that the decision requires an employee subjected to a facially discriminatory plan to provide additional evidence of an underlying motive.

Meacham v. Knolls Atomic Power Laboratory (No. 06-1505)

In *Meacham*, the Court considered age discrimination in employee layoffs. The plaintiffs brought suit against Knolls, after the employer, based on a set of rankings of employees, laid off 31 workers, 30 of whom were over age 40. They charged that the process used for the reduction in force had a disparate impact on older workers and that the employer had the burden of showing that its action was based on reasonable factors other than age. The Supreme Court agreed, holding that, under the ADEA, an employer must bear the burden of showing that dismissal decisions were not made on the basis of age and proving that "reasonable factors other than age" justified its decisions.

Chamber of Commerce v. Brown, Attorney General of California (No. 06-939)

In this case, the Court ruled that the National Labor Relations Act (NLRA) preempts a California law that prohibited some companies from speaking out against union organizing drives and similar union activities. The state law prohibited private employers from using state grants to "assist, promote, or deter union organizing." In its ruling, the Court said that although the NLRA contains no express preemption provision, the Court previously has held preemption necessary to implement federal labor policy of encouraging free debate on issues dividing labor and management. The NLRA "creates a zone free from all regulations," where noncoercive speech by both unions and employers about labor organizing is protected, the Court concluded.

ACTION

Employers should consider the Supreme Court's decisions for any applicable effects on plans, policies, or procedures. Some of these cases have quite broad applicability, whereas the ramifications from others will be more limited.

- The *MetLife* decision suggests that employers, insurance companies, and third-party administrators that operate in a dual capacity for an ERISA-covered plan should adopt internal safeguards to ensure accurate claims processing and to avoid any perception of succumbing to a conflict of interest. One possible way to achieve this would be to create a firewall between the claims administration and finance departments of an organization. Another would be to institute management checks and effective procedural safeguards.
- In light of the decision in *Kentucky Retirement Systems*, employers that have similarly structured benefit plans would appear not to be in danger of running afoul of the EEOC's regulations and the ADEA.
- By contrast, the *Meacham* decision indicates that employers that cut staff should document their decisions to be able to show that they were not simply laying off employees because of their age.
- In the immediate term, the *Chamber of Commerce* decision primarily affects employers dealing with union organizing activities in states with laws similar to those in California.

For more information about these recent U.S. Supreme Court decisions, please contact your Milliman consultant.