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Intel's Intel Doesn't Prove Actual Knowledge: Court Rejects Short ERISA Statute of Limitations

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On February 26, the U.S. Supreme Court in *Intel Corporation Investment Policy Committee v. Sulyma* unanimously held that participants are not presumed to read retirement plan investment information.

Background

The statute of limitations to bring ERISA fiduciary actions is the shorter of six years from the date of the improper action or three years from the claimant's actual knowledge of the violation. Claims brought after the statute of limitations expires are time-barred.

Sulyma was a retirement plan participant who received information beginning in 2010 about retirement plan fiduciary investment decisions. His claim, filed five years later, would be time-barred if Sulyma knew of the fiduciary decisions in 2010.

Prior court hearings in this case revealed that Sulyma received mailings and accessed webpages with pertinent information, and Sulyma claimed he never read the materials or saw the pertinent information online. Many believe that few participants review plan materials provided to them, and some webpages are structured to have a lot of information that can be confusing or require participants to scroll to view information they might not realize is there.

Ruling that Sulyma's receipt of information and web access did not equate to actual knowledge of the information, the Supreme Court noted ERISA's use of the phrase "actual knowledge" in triggering the three-year limitations period. Dictionaries express that "actual knowledge" requires true knowledge, and not mere possession or access to information that could lead to actual knowledge. Hence, the evidence was insufficient to prove actual knowledge and the longer statute of limitations applied.

Practical Implications

This ruling may significantly reduce the application of the three-year statute of limitations. The Supreme Court reasoned that Congress must have intended this, while reminding that actual knowledge can be proved through circumstantial evidence. However, if Sulyma's accessing webpages and receiving documentation was insufficient, then proving actual knowledge through circumstantial evidence is clearly a high threshold.

This ruling may frustrate plan administrators and service providers, who spend a lot of time and money developing and delivering materials, but it should not affect how fiduciaries fulfill their obligations. Still, since plan sponsors and administrators have an interest in participants making knowledgeable decisions, they may want to increase the likelihood that participants review the information that is available to them by providing information as concisely and clearly as possible. Proving that materials are read probably requires, in most cases, the use of electronic distribution methods so that data can be gathered and preserved as evidence. Fiduciaries also may want to structure webpages so that a single topic is addressed on a single page, which might make it easier to prove that a participant knew certain specific details.

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