Supreme Court Finds that Party Need Not "Prevail" on Merits to be Awarded Attorney's Fees Under ERISA

On May 24, 2010, a unanimous Supreme Court held that, under the Employee Retirement Income Security Act of 1974 ("ERISA"), a party need not "prevail" in a litigation to be awarded attorney's fees, but must only achieve "some degree of success on the merits." *Hardt v. Reliance Standard Life Insurance Co.*, No. 09-448 (May 24, 2010). The decision can be seen as a victory for aggrieved parties under ERISA who might have been deterred from bringing suit if they could not recover attorney's fees without prevailing. As discussed below, however, it also can be seen as a slight reduction in the discretion afforded courts in approving fees under ERISA.

The plaintiff, Bridget Hardt, had brought a claim for long-term disability benefits, which Reliance denied. The district court found "compelling evidence" that Ms. Hardt was disabled and that Reliance had mishandled her claim. It therefore remanded the case, giving Reliance 30 days to reconsider the evidence Ms. Hardt had provided. Reliance did so and granted her claim. Ms. Hardt then moved for attorney's fees.

The district court applied the Fourth Circuit's standard for awarding fees (which required that the party seeking the fees be a "prevailing party") and granted Hardt's motion. The Fourth Circuit itself found that Hardt had not satisfied Supreme Court precedent that required that, to be a prevailing party, a plaintiff had to obtain an "enforceable judgment on the merits." It therefore denied the claim.

Writing for the Court, Justice Thomas looked to the language of Section 502(g)(1) of ERISA, which provides courts with discretion to award attorney's fees to "either party" in ERISA matters. Noting that "The words 'prevailing party' do not appear in this provision," Justice Thomas quickly dismissed the Fourth Circuit's holding that the moving party must have prevailed. The Court added, however, that it was not appropriate for a court to exercise its discretion unless the moving party had "some degree of success on the merits," adding that this has to be something more than a "trivial" success or a purely procedural victory. The Court had little difficulty finding that Hardt had met this standard. While this condition seems consistent with Supreme Court precedent, it also seems to detract somewhat from the absolute discretion arguably granted the courts by Congress under ERISA.

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