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Eric Buchanan & Associates, PLLC is a full-service disability benefits, employee benefits, and insurance law firm. The attorneys at our firm have helped thousands of disabled people who have been denied social security disability benefits, ERISA LTD benefits, health insurance, life insurance and other ERISA employee benefits, as well as private disability and health insurance benefits. Eric Buchanan and R. Scott Wilson are certified as Social Security Disability Specialists by the National Board of Social Security Disability Advocacy. For more information, visit our website at www.buchanandisability.com.

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ERISA AND THE SUPREME COURT AFTER 40 YEARS
ERISA REMEDIES BY ERIC BUCHANAN

In our May 2016 newsletter, we began a discussion of the important U.S. Supreme Court cases decided under the Employee Retirement Income Security Act of 1974 ("ERISA") since that law was passed over 40 years ago. In our first article in the series, we discussed many of the Supreme Court cases that deal with the strong preemption language in ERISA, and the Supreme Court's interpretation of that language. In this newsletter we continue to summarize Supreme Court cases, looking at those cases that deal with the issue of remedies available under ERISA's primary cause of action provision, ERISA § 502 (29 U.S.C. § 1132.)

Broadly speaking, ERISA provides a cause of action available to participants and beneficiaries to recover benefits due under the terms of a plan, and that cause of action is found in ERISA § 502(a)(1)(B). ERISA also provides remedies for a plan itself under ERISA§ 502(a)(2) for breaches of fiduciary duties, but those remedies are not available for individuals. ERISA provides different remedies under ERISA § 502(a)(3) for participants and beneficiaries who have suffered a breach of fiduciary duties.

ERISA fiduciaries, such as plan administrators and claims administrators, may not bring a claim under ERISA § 502(a)(1)(B). Fiduciaries may only bring a claim on behalf of a plan for a breach of fiduciary duties under ERISA§ 502 (a)(2). If a fiduciary wishes to bring a claim against a plan participant or beneficiary, the fiduciary may only bring that cause of action under ERISA § 502(a)(3), which, again, provides for different remedies other than the benefits due under the terms of a plan.

This article explains these concepts in more detail, and explains how the Supreme Court has interpreted these provisions.

ERISA § 502, 29 U.S.C. § 1132 sets out what parties may bring a cause of action under ERISA and what causes of action may be brought:

> (a) Persons empowered to bring a civil action
>
> A civil action may be brought--
>
> **(1)** by a participant or beneficiary--
>
> **(A)** for the relief provided for in subsection (c) of this section, or

(B) to recover benefits due to him under the terms of his plan, to enforce his rights under the terms of the plan, or to clarify

his rights to future benefits under the terms of the plan;

> **(2)** by the Secretary, or by a participant, beneficiary or fiduciary for appropriate relief under section 409 of this title [liability for breach of fiduciary duty by a fiduciary];
>
> **(3)** by a participant, beneficiary, or fiduciary (A) to enjoin any act or practice which violates any provision of this subchapter or the terms of the plan, or (B) to obtain other *appropriate equitable relief* (i) to redress such violations or (ii) to enforce any provisions of this subchapter or the terms of the plan;
>
> [Subsections 4-9 all give a cause of action only to the Secretary of Labor, not individuals or plans]

(emphasis added). Congress, in passing ERISA, "set forth a comprehensive civil enforcement scheme" that included Congress's choice to allow certain remedies related to employee benefits plans and to prohibit others. *Pilot Life Ins. Co. v. Dedeaux,* 481 U.S. 41, 54, 107 S.Ct. 1549 (1987).

While plan participants and beneficiaries have the right to recover benefits under the terms of a plan under ERISA § 502(a)(1)(B), that cause of action is limited in several ways. As is clear from the language of the statute, § 502(a)(1)(B) is limited to participants and beneficiaries, and does not provide for a cause of action to be brought by a plan or by a fiduciary. Also, it is limited to recovering under the terms of a plan, so that if a plan or a fiduciary violates ERISA in some other way, such as breaching their fiduciary duties by misleading a plan participant, or by some other breach, there is no cause or action or remedy available under ERISA§ 502 (a)(1)(B), because a breach of fiduciary duties is not a violation of the terms of the plan.

Similarly, ERISA § 502(a)(2) is limited, in that it only allows for a cause of action against a fiduciary for a breach of fiduciary duty under ERISA § 409, and it also limits the remedy. Specifically, a fiduciary may be personally liable for a breach of fiduciary duties under that section, but may only be required "to make good to such plan any losses to the plan resulting from each such breach, and to restore to such plan any profits of such fiduciary. . ." and may be removed as a fiduciary. Under this provision, an ERISA fiduciary may not be required to make good on losses to an individual plan participant or to restore profits to an individual.

ERISA § 502(a)(3) is the catch-all provision, allowing a cause of action by individual participants and beneficiaries, as well as by plan fiduciaries. But the catch-all provision is also limited by the remedies available. A cause of action under this provision can only be brought to either "(A) to enjoin any act or practice which violates any provision of [ERISA] or the terms of the plan, or (B) to obtain other *appropriate equitable relief* (i) to redress such violations or (ii) to enforce any provisions of [ERISA] or the terms of the plan." As will be discussed further in this article, the Supreme Court has interpreted these remedies in various ways. Under (A), by its very terms the remedy is limited to an injunction. Under (B), other remedies are available, but those remedies must both be "appropriate" and "equitable." What those additional limitations are is the subject of many cases, and the remedies available under that provision of ERISA have swung back and forth like a pendulum.

One of the first cases to address ERISA remedies was *Massachusetts Mut. Life Ins. Co. v. Russell*, 473 U.S. 134, 140 (1985), in which an individual sought punitive, or extracontractual, damages for an ERISA fiduciary's delay in paying a claim. This case clarified that an individual beneficiary could bring a claim under ERISA § 502(a)(2) against a fiduciary who breached ERISA's fiduciary duties rules under ERISA § 409, but the remedy for such a breach could not provide an individual remedy for the plan participant, but only for the benefit of the plan as a whole. *Id.,* citing the language of ERISA § 409. Similarly, the Court found that ERISA § 502(a)(1)(B) does give an individual the ability to pursue benefits due under the terms of the plan, but nothing in the language of § 502(a)(1)(B) "gives rise to a private right of action for compensatory or punitive relief" so that extracontractual damages are not allowed under that provision of ERISA either. *Id.* at 144.

The plan participant in *Russell* also argued that there should be an implied remedy in ERISA to recover extracontractual damages generally. The Supreme Court also rejected that, finding that the "six carefully integrated civil enforcement provisions found in § 502(a) of the statute as finally enacted, however, provide strong evidence that Congress did *not* intend to authorize other remedies that it simply forgot to incorporate expressly" and the Court was "reluctant to tamper with an enforcement scheme crafted with such evident care as the one in ERISA." *Id.* at 146-47.

In *Mertens v. Hewitt Associates*, 508 U.S. 248 (1993) a plan did not meet its financial obligations and ultimately failed, and the plan participants sued the company that gave financial advice to the plan. The company that gave the advice was found to be a non-fiduciary. A claim could not be brought under § 502(a)(1)(B) because no one claimed the actual terms of the plan were violated. Also, no claim could be brought under § 502(a)(2) because that section only allows for claims against a fiduciary. Thus, the question was, what relief would be available under ERISA § 502(a)(3) against a non-fiduciary?

In answering this question in *Mertens*, the Supreme Court found that the limitation of the word "equitable" before the word "remedies" was a significant limitation on all

remedies. It not only precluded remedies that might have been available in a court of equity, but further limited the remedies to those for equitable causes of action, which the court described as "those categories of relief that were *typically* available in equity (such as injunction, mandamus, and restitution, but not compensatory damages)." *Id.* 508 U.S. at 256. Also, ERISA does not impose a specific restriction on a non-fiduciary from participating in a breach of fiduciary duties; therefore, the Court found that the limitation to "appropriate equitable remedies" in this instance meant that, a non-fiduciary could not be held liable for money damages under that provision of ERISA. *Mertens*, 508 U.S. at 253-54.

In *Varity Corp. v. Howe*, 516 U.S. 489 (1996) the Supreme Court held that an individual plan participant could seek an individual remedy for a fiduciary's breach of ERISA's fiduciary duties rules under ERISA § 502(a)(3). The Court addressed the situation where an employer, acting as a plan administrator and ERISA fiduciary, "through trickery, led [plan participants] to withdraw from the plan and to forfeit their benefits." *Id.* at 491-2. The employer and plan administrator created a new subsidiary to which it intended to transfer its unprofitable divisions. In order to avoid the controversy of involuntarily terminating plan participation in the old plan of employees being transferred to the new company, the employer, who was also plan administrator, falsely promised the employees that their benefits in the new subsidiary would be secure. *Id.* at 492-4. The Court first answered the question whether an employer who was also a plan administrator (as is often the case) could be liable as an ERISA fiduciary for breaching its fiduciary duties; to the extent an employer is explaining benefits to employees, it is wearing its fiduciary hat, and is speaking in the capacity as plan administrator. *Id.* at 501. Further, "[c]onveying information about the likely future of plan benefits, thereby permitting beneficiaries to make an informed choice about continued participation, would seem to be an exercise of a power "appropriate" to carrying out an important plan purpose," and was a fiduciary function. *Id.* at 502.

The next question addressed was whether providing misleading information about plan benefits would be a breach of fiduciary duties under ERISA. The Court gave what it called "a brief, affirmative answer." *Id.* at 506. The Court explained:

> ERISA requires a "fiduciary" to "discharge his duties with respect to a plan solely in the interest of the participants and beneficiaries." ERISA § 404(a). To participate knowingly and significantly in deceiving a plan's beneficiaries in order to save the employer money at the beneficiaries' expense is not to act "solely in the interest of the participants and beneficiaries." As other courts have held, "[l]ying is inconsistent with the duty of loyalty owed by all fiduciaries and codified in section 404(a)(1) of ERISA," *Peoria Union Stock Yards Co. v. Penn Mut. Life Ins. Co.,* 698 F.2d 320, 326 (C.A.7 1983). See also *Central States,* 472 U.S., at 570-571, 105 S.Ct., at 2840-2841 (ERISA fiduciary duty includes common-law duty of loyalty); *Bogert & Bogert, Law of Trusts and Trustees* § 543, at 218-219 (duty of loyalty requires trustee to deal fairly and honestly with beneficiaries); 2A *Scott & Fratcher, Law of Trusts* § 170, pp. 311-312 (same); Restatement (Second) of Trusts § 170 (same).

Id.

The final question the Court answered is "whether or not the remedial provision of ERISA that the beneficiaries invoked, ERISA § 502(a)(3), authorizes this lawsuit for individual relief." *Id.* at 507. The Court examined the previous case law, which had found that remedies were only available to the plan itself, and not individuals. The Court found that those claims that only allowed a plan to recover were limited to those causes of action under ERISA § 502(a)(2), which specifically incorporated ERISA § 409, which itself limits only provided for plans to recover. To the contrary, the Court found that ERISA § 502(a)(3), was a broader, catchall provision, the Court held that the "words of subsection (3)-'appropriate equitable relief' to 'redress' any 'act or practice which violates any provision of this title'-are broad enough to cover individual relief for breach of a fiduciary obligation." *Id.* at 510.

In *Great-West Life & Annuity Ins. Co. v. Knudson*, 534 U.S. 204, (2002), the Court again addressed what remedies are available under ERISA § 502(a)(3), but, unlike a claim against a non-fiduciary in *Mertens*, or against a fiduciary in *Varity Corp*, in *Knudson*, the claim was by an ERISA fiduciary health plan seeking to recover medical benefits from a plan participant, Knudson, who recovered from a third-party tortfeasor under the health plan's subrogation/reimbursement provisions. The Court held that an action by an ERISA fiduciary to recover under the subrogation/reimbursement provisions of a plan was essentially a cause of action to enforce a contract, which would have been a cause of action at law, and not equity; a legal cause of action only can obtain a legal remedy, and only an equitable cause of action can result in an equitable remedy. Thus, a cause of action to enforce the terms of a plan would not have a remedy available under ERISA § 502(a)(3) because there is no "equitable remedy" for a legal cause of action. The Court went further to hold that because the funds were deposited into a special needs trust, that even if a cause of action were available under ERISA § 502(a)(3), a plan's remedy to recover the money in this case would be limited, if at all, to those remedies "typically available in equity." However, without being explicitly overruled, this case was effectively overruled in most respects by the follow-on case, *Sereboff v. Mid Atlantic Medical Services, Inc.*, 547 U.S. 356 (2006).

Following *Knudson*, the Supreme Court explicitly left in place much of the rationale, but effectively overruled the holding of Knudson, and allowed ERISA fiduciaries to recover under ERISA § 502(a)(3), but required fiduciaries to jump through the hoops of alleging a cause of action at equity and seeking a remedy available in equity. In *Sereboff v. Mid Atlantic Medical Services, Inc.*, 547 U.S. 356, (2006), the Sereboffs were involved in an automobile wreck and Mid Atlantic provided medical benefits to the Sereboffs totaling $74,869.37. Mid Atlantic notified Sereboffs' attorney of its asserted lien on the anticipated proceeds from the suit over the automobile wreck; however after the case settled for $750,000 neither the Sereboffs nor their attorney sent any money to Mid Atlantic.

Mid Atlantic filed a claim as an ERISA fiduciary under ERISA § 502(a)(3) to enforce the terms of the plan, which gave Mid Atlantic a subrogation right. The Supreme Court distinguished *Great-West v. Knudson* on the grounds that, in *Knudson*, the recovery in the underlying tort case was placed directly in a special needs trust, and was never in the hands of the Knudsons. Then, despite the clear language in *Knudson* that only equitable causes of action can provide an equitable remedy, the Court in *Sereboff* held that the character of the underlying cause of action does not matter, because "ERISA provides for equitable remedies *to enforce plan terms,* so the fact that the action involves a breach of contract can hardly be enough to prove relief is not equitable; that would make § 502(a)(3)(B)(ii) an empty promise." *Sereboff,* 547 U.S. at 363.

The Court in *Sereboff* relied on a 90 year old case, *Barnes v. Alexander,* 232 U.S. 117, 34 S.Ct. 276, 58 L.Ed. 530 (1914), for the proposition that equity provides for a rule "that a contract to convey a specific object even before it is acquired will make the contractor a trustee as soon as he gets a title to the thing." *Id.* at 121, 34 S. Ct. 276. The Court then explained, that the Court's previous analysis in *Knudson* that equity only provided for certain remedies where the specific assets could be traced to specific funds did not provide a complete list of all available equitable remedies. The Court explained:

> *Knudson* simply described in general terms the conditions under which a fiduciary might recover when it was seeking equitable restitution under a provision like that at issue in this case. There was no need in *Knudson* to catalog all the circumstances in which equitable liens were available in equity; Great-West claimed a right to recover in restitution, and the Court concluded only that equitable restitution was unavailable because the funds sought were not in Knudson's possession.

Sereboff, 547 U.S. at 365. Thus, while the Court does not explicitly overrule *Knudson*, the Court did allow the ERISA fiduciary to recover money from a beneficiary to enforce the terms of the plan, without specifically being able to trace identifiable funds into the beneficiaries' possession, by asserting an equitable remedy.

Lastly, the Court rejected Sereboff's argument that any equitable claim by the ERISA fiduciary would be subject to equitable defenses. The Supreme Court explained that the ERISA fiduciary's claim was not truly an equitable claim, but rather was an ERISA claim to recover under the terms of the plan; therefore, "the parcel of equitable defenses the Sereboffs claim accompany any such action are beside the point." *Sereboff*, 547 U.S. at 368. Then, in footnote 2, the Court left the door open to arguments that, a recovery by a plan fiduciary that does not take into account equitable defenses, such as the made-whole doctrine, may not be an "appropriate" equitable remedy under ERISA § 502(a)(3), but, because that issue was not raised below, the Supreme Court declined to consider it for the first time.

In another case addressing the remedies available to a plan participant or beneficiary when an ERISA fiduciary provided false and misleading information (thus violating their fiduciary duties), the Supreme Court held in *Cigna v. Amara*, 563 U.S. 421, 131 S.Ct. 1866 (2011), that the remedy available must still be one based on a cause of action in equity, but the causes of action against a breaching fiduciary could provide relief such as reformation of a contract or surcharge, a form of monetary damages, because those were causes of action typically available in equity brought by a beneficiary against a breaching fiduciary.

In *Amara*, CIGNA decided to change from a defined benefit plan to a defined contribution plan, and decided to place a value on the vested benefits for employees who were already in the defined benefit plan. CIGNA represented that the new plan would be an improvement on the old plan, and that the contribution to the new plan based on vested benefits earned under the old plan would represent "the full value of the benefit [they] earned for service before 1998," as well as other promises about the new plan. *Id.* at 428. In fact, the plan would save CIGNA significant money, moved the risk of dropping interest rates from CIGNA to the employees, and contained a reduction of the contribution based on an actuarial calculation that some employees would pass away that was not disclosed. *Id.* at 429-430. The bottom line was that CIGNA's representations "were incomplete and inaccurate." *Id.* at 431.

The Court then turned to whether ERISA § 502 provided a remedy for the plan participant plaintiff. The district court took the approach of first ordering the plan to be reformed to conform to the promises made, and thus a remedy would have been available under ERISA § 502(a)(1)(B) to obtain benefits due under the terms of the plan. *Id.* at 435. The Supreme Court rejected that approach, holding that ERISA § 502(a)(1)(B) does not authorize a court to reform

the terms of the plan. *Id.* at 436. Further, the court could not enforce the promises made in any summary plan descriptions, because those documents were not the actual plan, but only descriptions of the plan. *Id.* at 436-438.

The Court in *Amara* then turned to whether a remedy would be available under ERISA § 502(a)(3), which provides for only "appropriate equitable remedies" and found that the lower court's concern that provision would not provide an adequate remedy to be misplaced. *Id.* at 438. The Court explained that the previous cases limiting equitable remedies were of a different nature; for example *Mertens, supra*, involved a claim against a non-fiduciary. *Amara*, 563 U.S. at 439. *Great-West v. Knudson, supra*, was also different, involving a claim brought by a fiduciary against a beneficiary, and was a claim seeking a lien which required a recovery of the "particular" money that had been collected. *Amara*, 563 U.S. at 439. The Court contrasted the present case as one that "concerns a suit by a beneficiary against a plan fiduciary (whom ERISA typically treats as a trustee) about the terms of a plan (which ERISA typically treats as a trust)." *Id.* The Supreme Court explained this was just the "kind of lawsuit that, before the merger of law and equity, respondents could have brought only in a court of equity, not a court of law." *Id.* at 439-440, *citing*, 4 A. Scott, W. Fratcher, & M. Ascher, Trusts § 24.1, p. 1654 (5th ed.2007) ("Trusts are, and always have been, the bailiwick of the courts of equity").

The Court went on to explain that reformation of a contract was just the type of remedy available in equity that courts could allow as an "appropriate equitable remedy."

> The power to reform contracts (as contrasted with the power to enforce contracts as written) is a traditional power of an equity court, not a court of law, and was used to prevent fraud. See *Baltzer v. Raleigh & Augusta R. Co.,* 115 U.S. 634, 645, 6 S.Ct. 216, 29 L.Ed. 505 (1885) ("[I]t is well settled that equity would reform *441 the contract, and enforce it, as reformed, if the mistake or fraud were shown"); *Hearne v. Marine Ins. Co.,* 20 Wall. 488, 490, 22 L.Ed. 395 (1874) ("The reformation of written contracts for fraud or mistake is an ordinary head of equity jurisdiction"); *Bradford v. Union Bank of Tenn.,* 13 How. 57, 66, 14 L.Ed. 49 (1852); J. Eaton, Handbook of Equity Jurisprudence § 306, p. 618 (1901) (hereinafter Eaton) (courts of common law could only void or enforce, but not reform, a contract); 4 Pomeroy § 1375, at 1000 (reformation "chiefly occasioned by fraud or mistake," which were themselves concerns of equity courts); 1 Story §§ 152–154; see also 4 Pomeroy § 1375, at 999 (equity often considered **1880 reformation a "preparatory step" that "establishes the real contract").

Amara, 563 U.S. at 440-41. Further, holding CIGNA to provide just what it had promised is equitable estoppel, another "traditional equitable remedy" which "operates to place the person entitled to its benefit in the same position he would have been in had the representations been true." *Id.* at 441. In response to concerns that money damages might not be available in equity, the Court again allayed those fears. Because this is a claim by a participant against a fiduciary, "[e]quity courts possessed the power to provide relief in the form of monetary 'compensation' for a loss resulting from a trustee's breach of duty, or to prevent the trustee's unjust enrichment," and that "prior to the merger of law and equity this kind of monetary remedy against a trustee, sometimes called a 'surcharge,' was 'exclusively equitable.' " *Id.* at 441-42. Further, the remedy of "surcharge," or allowing money damages against a breaching fiduciary is widely available in equity; the "surcharge remedy extended to a breach of trust committed by a fiduciary encompassing any violation of a duty imposed upon that fiduciary." *Id.* at 442. "Thus, insofar as an award of make-whole relief is concerned, the fact that the defendant in this case, unlike the defendant in *Mertens,* is analogous to a trustee makes a critical difference." *Amara*, 563 U.S. at 442.

In the case of *US Airways, Inc. v. McCutchen*, ___ U.S. ___, 133 S. Ct. 1537, 1549, 185 L. Ed. 2d 654 (2013), the Supreme Court again addressed remedies under ERISA § 502(a)(3), but returned to the context of a claim brought by a fiduciary against a plan participant. The Court addressed the question left unaddressed in *Sereboff*, which was, since ERISA plan administrators may only seek equitable remedies, would a plan participant or beneficiary, against whom recovery is sought, be allowed to raise equitable defenses? In short, the Court held: no, equitable defenses cannot be used to overcome the clear language of a plan.

The Court reasoned that since the ERISA plan documents were, in effect, a contract documenting the "expressed commitments" of the parties, that " when parties demand what they bargained for in a valid agreement," one of the parties cannot then ignore the plain language of the agreement by applying equitable defenses. In effect, the Supreme Court has held that ERISA plans are, for these purposes, contracts, and, while the plan's remedy is to seek an equitable lien by agreement, that lien is created by the agreement, and is bound by the terms of the agreement. "[i]f the agreement governs, the agreement governs," reasoned the Court.

However, in the second part of the *McCutchen* decision, the Court found there is still a place for equitable rules in interpreting the provisions of ERISA plans. In this

case, in addition to arguing that equitable defenses should bar the recovery by the plan of McCutchen, the beneficiary, McCutchen's attorneys also argued that their fair share of the attorneys' fees earned in obtaining the funds should be protected under the common fund doctrine. Under that doctrine, any reimbursement to the plan should be reduced by the costs incurred in recovering the funds; therefore, the plan should not recover from the costs of the recovery, but rather should share in the cost of the fees paid to the attorneys.

The Court agreed that the common fund doctrine could apply, but *not* because that is an equitable principle that trumps the terms of the plan. Rather, the Court found that the plan did not adequately address whether it could recover out of attorneys' fees. Since the plan was silent on the allocation of attorneys' fees, the Court reasoned that equitable principles could still be used in construing the contract. While the plan may have been able to depart from the common-fund doctrine by drafting its terms to say so, where it did not, the Court could use "the well-established common-fund rule" to construe the rules where a plan was silent.

The U.S. Supreme Court again addressed the remedies available to a plan fiduciary under ERISA in *Montanile v. Board of Trustees of the National Elevator Industry Health Benefit Plan*, ___ U.S. ____, 2016 WL 228344, (U.S. Jan 20, 2016). The Court held that when an ERISA plan participant obtains funds from a third party that are subject to a reimbursement or subrogation claim, but spends the whole amount on "nontraceable items (for instance, on services or consumable items like food)," the plan fiduciary cannot maintain a suit under ERISA § 502(a)(3) to obtain a judgement to recover from the participant's other assets. *Id.* at *2. Specifically, "when a participant dissipates the whole settlement on nontraceable items, the fiduciary cannot bring a suit to attach the participant's general assets under [ERISA] § 502(a)(3) because the suit is not one for 'appropriate equitable relief.' " *Id.*

The causes of actions and remedies available under ERISA continue to be an often-litigated area of the law that surely will continue to develop. The cases discussed in this article provide a foundation for understanding the cases yet-to-come, as well as those cases decided at the circuit court level. In our next article in this series of important Supreme Court cases interpreting ERISA, we will turn to the topic of ERISA standard of review for claims decisions, the authority ERISA fiduciaries have to make decisions and interpret their plans, and the rules that apply to claim decisions.

END NOTES

[1] Technically, the right of subrogation is the right to step into another party's shoes. In the case of an ERISA plan, a right of subrogation would give the plan the right to step into the shoes of the injured plan participant and become a co-plaintiff in the underlying lawsuit. A "reimbursement" claim is one by the ERISA plan to recover directly from the injured plan participant after that person recovers from a third party. However, courts use the terms "subrogation" and "reimbursement" interchangeably in most cases. In this case, the actual claim by the ERISA plan was for reimbursement for the medical benefits it previously paid.

NEED A SPEAKER?

The attorneys at Eric Buchanan & Associates, PLLC are available to speak to your organization regarding social security disability, ERISA long-term disability, group long-term disability, private disability insurance, ERISA benefits, denied health insurance claims and life insurance claims.

ERIC BUCHANAN & ASSOCIATES, PLLC: UPCOMING CLE SPEAKING ENGAGEMENTS

Eric Buchanan will be speaking at the upcoming ACI Litigating Disability Insurance Claims Conference in Boston, MA on Friday, September 16th, 2016.

Topic: Speaking: Litigating Strategies for Filing ERISA Cases v. Filing Non ERISA Cases, Procedural Nuances in the Early Stages of Pleadings, Finding More Favorable Venues, and Transfer of Venue.

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