



## ERISA Fiduciary Duties Do Not Apply to Employer Under a Non-ERISA Stock and Incentive Plan

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A recent case from the Second Circuit has provided useful guidance regarding the scope of ERISA fiduciary duties. In *Bell v. Pfizer, Inc.*, 2010 U. S. App. LEXIS 18111 (2d Cir. Aug. 30, 2010), the court resolved a dispute between a former employee and the Pfizer, Inc. Stock and Incentive Plan (“Pfizer Plan”) concerning the employee’s eligibility to exercise certain stock options after leaving employment with Pfizer. A dispute arose as to the interpretation of the employee’s options under the Pfizer Plan, and the employee filed suit for a breach of fiduciary duty under the Employee Retirement Income Security Act (“ERISA”), as well as some common law claims.

The court held that the stock options were not governed by the fiduciary duties that ERISA imposes. The court observed that employers typically “wear two hats” when administering employee benefit plans as well as acting as employers. An employer is an ERISA fiduciary only to the extent the employer is exercising discretionary authority or responsibility in the administration of an ERISA-regulated plan, not when the employer conducts business not regulated by ERISA. ERISA imposes a number of fiduciary duties that relate mainly to managing plan assets, maintaining plan records, disclosing specified information, and avoiding conflicts of interest.

In this case, the court held that the Pfizer Plan was not governed by the fiduciary duty provisions in ERISA because it was not a retirement benefit governed by ERISA, even though interpretation of the employee’s stock options had a significant effect on her retirement options and decisions.

This case provides protection to employers defending against broad assertions of fiduciary duty relating to employee compensation. It also provides useful guidance for employers to help them better identify the instances when they are wearing their “ERISA plan administrator” hat with a fiduciary duty to plan participants.

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