# D.C. Circuit Rules That "Exhaustion of Administrative Remedies" Is Not Required For Violations of ERISA'S Statutory Guarantees: Stephens v. Pension Benefit Guaranty Corporation

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The U. S. Court of Appeals for the District of Columbia Circuit has joined five other federal circuits to rule that pension plan participants need not exhaust a plan?s internal remedial procedures before they file suit in federal court to assert violations of ERISA?s substantive statutory guarantees. In *Stephens v. Pension Benefit Guaranty Corporation*, No. 13-5129 (D. C. Cir. June 24, 2014), the D. C. Circuit has clarified the rules for applying the judicially created ?exhaustion of administrative remedies? doctrine.

The Background. In this long-running litigation, the plaintiffs were two ex-pilots of U. S. Airways who were participants in the U. S. Airways pension plan (?Plan?). The Plan permitted retirees to choose, upon retirement, between receiving their benefits as a lifetime monthly annuity or an actuarially equivalent lump sum payment. For those retirees choosing the annuity option, payment was to begin on the first day of the month after the pilot retired. For those who chose the lump sum benefit, the Plan was to calculate the sum equivalent to the annuity benefit as of the annuity commencement date. These plaintiffs chose the lump sum benefit but were not paid until 45 days after the annuity starting date, and were not paid interest accrued on their benefits for the days after that starting date. The amounts were not insignificant; one ex-pilot received a lump sum of over $488,000 and claimed interest of an additional $3,660, while the other received a lump sum of over $672,000 and claimed interest of over $5,000. U. S. Airways, however, refused to make the interest payments, saying the 45 days were administratively necessary to perform the calculations and assure the lump sum amounts were correctly calculated. One of the ex-pilots filed an administrative appeal, which was denied. The two plaintiffs then filed suit.

Over the following years, the suit proceeded through the federal courts. In the interim, defendant U. S.

Airways went into bankruptcy, and the Pension Benefit Guaranty Corporation, a public corporation, became responsible for the Plan and was substituted as the defendant in this case. Previous rulings by the district court were appealed to the federal appellate court, which generally ruled that the lump sum benefits were correctly calculated but that the plaintiffs were entitled to be paid the benefits after only a ?reasonable delay?, and that U. S. Airways was required to pay accrued interest for any additional delay. The case was remanded to the district court to determine how much of the delay was unreasonable, and the amount of interest due.

Although ERISA Section 503 requires a plan to provide for internal administrative review procedures for participant and beneficiary claims under a plan, the statute does not expressly require those claimants to exhaust the internal administrative remedies before filing suit in the courts. However, the Federal circuit courts have long adopted such a requirement, based on ERISA?s structure and history, to effectuate the Congressional purpose in enacting Section 503 and thus enable plan administrators to exercise their discretion in managing plan funds, assemble a factual record to assist any judicial review, and the like. *See, e.g.*, *Hickey v. Digital Equipment Corp.*, 43 F.3d 941 (4th Cir. 1995).

On remand, the district court in *Stephens* applied that doctrine and noted that only one of the plaintiffs had pursued an administrative appeal before filing the lawsuit. (That plaintiff settled his claim with PBGC before this latest appeal.) The court ruled that the dispute involved issues of plan administration to be resolved under the plan documents, and, therefore, the remaining plaintiff had failed to exhaust his administrative remedies. That plaintiff appealed.

<u>The Circuit Court?s Ruling</u>. Referring to a previous decision in this litigation, the D. C. Circuit ruled that the standard to determine the length of a ?reasonable delay? in paying the lump sum benefit was found in a regulation issued by the Internal Revenue Service, 26 C.F.R. § 1.401(a)-20. As a result, the claim of ?unreasonable delay? in this case asserted a statutory violation and required the interpretation of ERISA regulations and the substantive guarantees under that federal law. These were distinct from contractual rights arising under the Plan documents themselves. Although the failure to pay within a reasonable time was also a matter of faulty plan administration, the Court held that the plaintiffs? right to relief was determined by their statutory claim under a reasonableness standard created and defined by federal law.

The *Stephens* court therefore ruled that the remaining plaintiff?s statutory claim was not subject to ERISA?s ?exhaustion of administrative remedies? doctrine, and permitted his claim to proceed, though he had never pursued an administrative appeal to the Plan.

<u>The Significant Lessons</u>: Besides the practical lesson of *Stephens* regarding the application of the regulatory standard for any ?reasonable delay? in calculation and payment of a retirement plan?s lump sum benefits, this case points out the limits of the judicially-made ?exhaustion of administrative remedies? doctrine. Generally, all ERISA claims will require some reference to a plan document, but *Stephens* underscores the importance of identifying the ultimate source of the claimant?s right to relief. Where that right of relief is rooted in the ERISA statute or its implementing regulations, the ?exhaustion of administrative remedies? doctrine will not prevent the claimant from proceeding directly to court in those circuits, including the Fourth Circuit, that apply the *Stephens*

rule.

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