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Supreme Court Declines Arbitration Case: What Plan Sponsors Need to Know



The Supreme Court has again declined to address whether ERISA disputes can be resolved through arbitration, leaving plan sponsors with more questions than answers. The court's decision in *Argent Trust Co. v. Ramon Cedeno et al.* highlights the ongoing circuit split regarding arbitration provisions in ERISA-covered plans. While some courts uphold these provisions, others invalidate them, forcing sponsors to grapple with conflicting legal interpretations. Here's how

this unresolved issue impacts plan sponsors — and what they can do to mitigate risks.

Uncertainty in Plan Design

The absence of a definitive ruling poses significant challenges for plan sponsors designing and managing retirement plans. Arbitration clauses, which are intended to streamline dispute resolution, may be ruled unenforceable in some jurisdictions, leaving sponsors exposed to legal challenges. For employers operating across multiple states, the inconsistent enforcement among circuits adds another layer of complexity, making it harder to maintain cross-plan uniformity and ensure legal compliance.

Increased Litigation Exposure

With arbitration provisions on uncertain legal footing, plan sponsors are left vulnerable to federal court lawsuits. Compared to arbitration, federal court cases are typically costlier, more time-consuming and more likely to allow class-action claims. The inability to block class actions through arbitration provisions heightens both financial and reputational risks for sponsors.

Administrative Burdens and Rising Costs

Staying compliant in this environment demands significant time and resources. Sponsors must regularly update plan documents to reflect the latest judicial interpretations and may need to consult legal counsel more frequently to help mitigate risks. This ongoing burden can divert attention from other strategic priorities and increase overall administrative costs.

The Legislative Wildcard

Proposals like the Employee and Retiree Access to Justice Act aim to ban mandatory arbitration clauses in ERISA-covered plans altogether. If passed, the legislation would provide clarity by



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eliminating arbitration as an option but could also lead to an increase in litigation. Sponsors would need to adjust their dispute resolution strategies and prepare for potentially higher legal expenses.

How Plan Sponsors Can Navigate the Uncertainty

In the absence of clear guidance from the Supreme Court, plan sponsors should focus on proactive risk management:

- Evaluate existing arbitration clauses - Work closely with legal counsel to assess the enforceability of existing arbitration provisions under current case law.
- Explore alternative conflict resolution channels and strengthen dispute management strategies - Evaluate options that align with current legal and regulatory standards, such as resolution initiatives offered by the IRS and DOL. Additionally, regular self-audits can further help identify and reduce potential conflicts with participants, beneficiaries and regulatory bodies to help mitigate fiduciary risk.
- Enhance participant communication - Clearly explain plan provisions to participants to help build trust and reduce confusion during this period of uncertainty.

The Supreme Court's decision to sidestep the arbitration issue leaves plan sponsors in a state of legal limbo. But with careful planning and a focus on compliance, sponsors can help navigate this ongoing uncertainty and mitigate potential risks.

Sources

<https://www.plansponsor.com/supreme-court-declines-to-review-petition-on-erisa-arbitration/>

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