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Firm Scores Victories for Aetna in Two ERISA Cases

News & Events

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Hughes Hubbard recently obtained summary judgments in two ERISA cases for Aetna Life Insurance Company in the Western District of Missouri.

In the first case, Rosamaria Powell, a former Ernst & Young senior manager, claimed Aetna underpaid her long-term disability benefits because Aetna failed to factor in her state and federal tax payments when calculating the benefit amount. Powell started receiving benefits in 2009. In February 2011, Aetna reduced her monthly payments by the amount of Social Security disability benefits she started receiving. Because the SSDI benefits were retroactive to 2008, Aetna notified Powell that she had been overpaid and if it could not recover the overpayment, her benefits would be suspended.

Powell filed suit against Aetna in November 2011, alleging ERISA violations for not factoring into the reduction the federal and state income taxes she had to pay on her SSDI benefits. By her calculation, Aetna owed her an additional \$41,500.

HHR filed a motion for summary judgment, arguing that Aetna's decision to offset Powell's benefits and to recover overpayments was a reasonable interpretation of the plan. U.S. District Judge Scott Wright agreed and ruled in March 2013 that Aetna had not abused its discretionary authority to determine whether and to what extent employees and beneficiaries are entitled to benefits and to construe any disputed or doubtful terms of the policy.

In the second case, Mildred Thomas sought to recover accidental death and personal loss (ADPL) benefits under her late daughter's plan in excess of \$550,000, and statutory penalties in excess of \$165,000, after Aetna paid Thomas the life insurance benefit under the plan. Aetna denied Thomas' request, citing that her claim did not establish a loss that fell within the coverage requirements of the policy.

Jessica Tracey Thomas Scott, an assistant vice president at Bank of America, died in 2011 from an overdose of drugs, some of which had been prescribed for pain relief following jaw surgery. Thomas asserted that her death was an accident covered under the ADPL policy in the Bank of America plan; Aetna disagreed, citing the Medical

Examiner's report and other records that indicated some of the drugs found in Scott's system exceeded levels of what had been prescribed.

Thomas filed suit in state court in November 2011, alleging breach of contract and vexatious refusal to pay benefits. Aetna removed the case on ERISA pre-emption grounds and moved to dismiss the state law claims. U.S. District Court Judge Gary A. Fenner ruled ERISA preempted plaintiff's state law claims, but permitted plaintiff to pursue a claim to recover benefits under ERISA. Plaintiff sought discovery that raised some ERISA questions of first impression in the Eighth Circuit.

Aetna prevailed on key issues, such as whether expert opinions outside the administrative record would be permitted. HHR filed a motion for summary judgment in July 2012, arguing that Aetna's denial of Thomas' claim was not an abuse of discretion; after plaintiff added a claim for statutory penalties, Aetna moved to dismiss it.

On Sept. 30, 2013, U.S. District Judge Brian C. Wimes ruled that Aetna's denial of Thomas' claim was "reasonable and plaintiff [had] not proffered any admissible evidence demonstrating the existence of a genuine issue of material fact." Judge Wimes also granted Aetna's motion to dismiss the statutory penalty claim.

Liz Raines and Brendan Franzoni represented Aetna in both cases.

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