SCOTUS: *Heimeshoff* v. *Hartford Life & Accident Insurance Co., et al.*: ERISA Plans May Contractually Set Time Limitations for Bringing Claims

The Supreme Court of the United States recently held that a plan covered by the Employee Retirement Income Security Act of 1974 ("ERISA") may specify a limitations period on suits seeking judicial review of plan decisions, as well as when such periods begin running.[1] This marks the second instance this Term that the Court has upheld a provision in a contract between two sophisticated parties that defines the terms of judicial review related to the parties' agreement.[2]

I. Background and procedural history

In *Heimeshoff*, an employee reported medical issues to her employer in 2005 that she claimed prevented her from being able to work. She filed a claim for disability benefits, and after reviewing her claim, her plan denied it. Over the course of the next two years, the internal appeal process contemplated by her plan's administrative remedies proceeded. The employee had a deadline of September 30, 2007 by which to submit proof in support of her administrative appeal. On November 26, 2007, the plan issued a final denial of the claim. On November 18, 2010, the employee filed suit in the United States District Court for the District of Connecticut seeking review of the denied claim pursuant to ERISA. Under the terms of the employee's plan, however, the employee had to file suit within three years from the date on which "written proof of loss is required to be furnished according to the terms of the policy." The plan provider and employer moved to dismiss the lawsuit as barred by the benefit plan's three-year limitations period, arguing that the employee's deadline to file a lawsuit was September 30, 2010. The district court agreed with the plan provider and employer that the limitations period barred the suit, and granted the defendants' motion to dismiss. The United States Court of Appeals for the Second Circuit affirmed.[3]

II. ERISA plans may specify reasonable limitations periods on lawsuits seeking judicial review of a denial of benefits unless a controlling statute provides otherwise

ERISA and its regulations require plans to provide an internal administrative and appeal process for reviewing claims after participants submit proof of loss. Once a plan issues a final denial of a claim, a participant may seek judicial review of the denial under Section 502 of ERISA. Courts generally require participants to exhaust the internal review processes before bringing a lawsuit under ERISA.[4]

Neither ERISA nor its regulations set forth a statute of limitations that establishes the period of time within which a claimant must bring a lawsuit to seek judicial review of denial of a claim. Resolving a split among

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[1] *Heimeshoff* v. *Hartford Life & Accident Ins. Co., et al.*, No. 12-729, 2013 WL 6569594 (Dec. 16, 2013) (also available at http://www.supremecourt.gov/opinions/13pdf/12-729_q8l1.pdf). Page references in this Memorandum are to the Court's slip opinion.

[2] In *Atlantic Marine Constr. Co., Inc.* v. *U.S. District Court for the Western District of Texas*, the Court held that, absent exceptional circumstances, a valid forum-selection clause in a contract must be enforced by federal courts when a party to the contract files a lawsuit in a forum other than the one the parties bargained for in their agreement. *See* No. 12-929, 2013 WL 6231157 (Dec. 3, 2013); *see also* Firm Memorandum, SCOTUS: *Atlantic Marine Constr. Co., Inc. v. U.S. District Court for the Western District of Texas*: Valid Forum-Selection Clauses Are Enforceable Absent "Extraordinary Circumstances" (Dec. 6, 2013) (available online at http://www.cahill.com/publications/firm-memoranda/1013015/).

[3] *Heimeshoff*, slip op. at 1-3.

[4] *Id.*, at 5.

the federal courts of appeal, the Supreme Court held that "[a]bsent a controlling statute to the contrary, a participant and a plan may agree by contract to a particular limitations period, even one that starts to run before the cause of action accrues, as long as the period is reasonable."[5]

Long-standing Supreme Court precedent affirms the general validity, with certain exceptions, of contract provisions that set limitations periods on lawsuits concerning a contract itself. To be enforceable, such provisions must be reasonable and cannot be barred by a statute that otherwise prevents shortening the limitations period. This established precedent "allows parties to agree not only to the length of a limitations period but also to its commencement."[6] The Court recognized that this principle is especially appropriate in the ERISA context because the plan itself "is at the center of ERISA" and focusing on its written terms minimizes administrative costs, minimizes litigation expenses, and encourages employers to offer ERISA plans in the first place.[7]

ERISA's regulations governing a plan's internal review of a claim contemplate most internal reviews to be resolved within one year. Against this backdrop, a three-year limitations period that begins running at the start of this internal review process was held to be reasonable because an ordinary plan participant would still have between one and two years to seek judicial review of denial, even if the review process were to last longer than usual.[8]

III. Plans may start a limitations period before an internal review is complete

The Court also rejected the argument that starting the three-year clock before the internal review process is completed would undermine the administrative process. The internal review process typically takes about one year to run, ERISA's regulations require the internal review process to proceed expeditiously, and if a plan does not take prompt action, a participant in any event then has immediate access to the courts.[9] It also rejected the argument that a dilatory review process by the employer or plan could foreclose judicial review: "If the administrator's conduct causes a participant to miss the deadline for judicial review, waiver or estoppel may prevent the administrator from invoking the limitations provision as a defense." Tolling may also be available to a participant in such cases.[10]

The Court also noted that participants would not necessarily run to the courthouse before completing the administrative process. First, a potential plaintiff must take full advantage of the administrative process because the record for judicial review of claims denials is generally limited to the administrative record compiled during an internal review. Second, courts ordinarily review such final determinations for abuse of discretion only—thus encouraging plan participants to make full use of the internal review process to fully adjudicate the merits of their benefits claims' arguments.

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[5] *Id.*, at 4-5.

[6] *See id.*, at 6, 7.

[7] *Id.*, at 8.

[8] *Id.*, at 9.

[9] *Id.*, at 12 (citing internal ERISA regulations). While the Court acknowledged that there were a handful of instances where a participant was time-barred from seeking judicial review of a claims denial because the internal review process took longer than three years, it rejected the argument that those examples warranted longer limitations periods because in those few instances, the record indicated the participants had not diligently pursued their own rights.

[10] *Id.*, at 14-15.

IV. Tolling of a contractual limitations period is not appropriate

The plaintiff also asked the Court to consider tolling a limitations period during the internal review process. The Court refused to do so, noting that doing so would amount to reconstituting a provision to the parties' contract. An "agreement should be enforced unless the limitations period is unreasonably short or foreclosed by ERISA."[11] The plaintiff also asked the Court to look to state law to see if the limitations period should be tolled during the internal review process. The Court refused to do so, because a state's tolling rules may be borrowed only in cases where its limitations periods are also borrowed. Under circumstances where parties adopt a limitations period by contract, and "where there is no need to borrow a state statute of limitations[,] there is no need to borrow concomitant state tolling rules."[12]

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If you have any questions about the issues addressed in this memorandum or if you would like a copy of any of the materials mentioned, please do not hesitate to call or email Charles A. Gilman at 212.701.3403 or cgilman@cahill.com; Jon Mark at 212.701.3100 or jmark@cahill.com; John Schuster at 212.701.3323 or jschuster@cahill.com; or Guillaume Buell at 212.701.3012 or gbuell@cahill.com.

[11] *Id.*, at 15.

[12] *Id.*, at 16.