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Supreme Court Reaffirms Discretion of ERISA Plan Administrators

By Stephen L. Knowles

An administrator of a benefit plan established under the Employee Retirement Income Security Act of 1974 (ERISA) normally has discretion to interpret the plan's provisions. Courts reviewing those decisions have been required to defer to the administrator's exercise of discretion in interpreting the plan. Does an administrator who made a mistake forfeit that discretion? "No," said the U.S. Supreme Court in [Conkright v. Frommert](#), No. 08-810 (filed April 21, 2010). The Court held that a single honest mistake in plan interpretation does not justify depriving the administrator of deference in the review of subsequent related plan interpretations. The decision reassures plan administrators that their decisions should continue to be entitled to a deferential standard of review.

Background of the *Conkright* Case

The controversy in *Conkright* related to Xerox Corporation's pension plan. A group of Xerox employees sued the plan and its administrator, contending that their pension benefits had been calculated incorrectly. The employees had left the company in the 1980s and received lump-sum payments for benefits earned up to the time of their departure. They were later rehired. The dispute related to the proper accounting of the employees' past pension distributions in the determination of their current benefits.

The plan administrator decided on a method--termed the "phantom account" method--that took into account the time value of money by calculating the growth that the employees' investments would have experienced if they had remained in the

plan. Their present benefits were then reduced based on these calculations.

Unhappy with the results of the phantom account method, the employees unsuccessfully challenged the method administratively and in federal district court. The district court applied a deferential standard as required under ERISA case law and upheld the administrator's decision. On appeal, the Court of Appeals for the Second Circuit reversed the district court's decision. The court of appeals ruled that the administrator's interpretation of the plan was unreasonable under ERISA and that the employees had not been adequately notified that their benefits would be calculated under the phantom account method. In other words, the phantom account method was a mistake and should not have been used.

When the case was again considered by the district court on remand, the plan administrator proposed a revised approach for calculating benefits. Like the phantom account method, the revised approach took into account the time value of money. However, the revised method used a fixed rate of interest.

The district court did not apply a deferential standard of review and rejected the plan administrator's revised approach. Instead, the district court agreed with the employees and ruled that the value of the employees' present benefits should be reduced only by the amounts that had been distributed in the 1980s.

The plan administrator appealed the district court's decision. The court of appeals affirmed, holding that the district court did not have to apply a deferential standard of review on remand because the administrator's previous decision--based on the phantom account method--had violated ERISA. On the merits, the court of appeals held that the district court's method for calculating benefits was not an abuse of the court's discretion.

Supreme Court's Decision

The Supreme Court vacated the judgment of the court of appeals and remanded the case for further proceedings. In an opinion by Chief Justice Roberts (joined by four other Justices), the Court rejected the "one-strike-and-you're-out-approach" followed by the court of appeals.

Under previous case law, courts were required to give deference to the decisions of a plan administrator when the terms of the plan gave the administrator discretion in interpreting the plan. Virtually all ERISA plans have such a provision. The Xerox pension plan stated that the administrator had "broad discretion in making decisions relative to the Plan." The Supreme Court discerned no reason for an ad hoc departure from established precedent simply because the plan administrator had made "a single honest mistake" in the plan's administration.

The Court reasoned that requiring courts to defer to the

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decisions of plan administrators is consistent with considerations of efficiency, predictability, and uniformity. Allowing exceptions to judicial deference on an ad hoc basis would be inefficient. Courts would have to decide the circumstances under which a deferential standard of review was not necessary, leading to increased litigation. Allowing such exceptions would also lead to unpredictable results. For example, the district court's method of determining the employees' benefits under the Xerox plan did not account for the time value of money, which the Supreme Court characterized as "heresy, and highly unforeseeable" from an actuarial standpoint. Finally, allowing ad hoc exceptions to the general rule of deference could lead to different results in different states. This lack of uniformity would require plan administrators to determine benefits based on where employees lived or had brought a legal action.

The Supreme Court further noted that the application of a deferential standard of review did not mean that a plan administrator would always prevail on the merits of the administrator's interpretation. Rather, consistent with prior case law, the Court reiterated that the administrator's interpretation of a plan should not be disturbed if the interpretation was reasonable. The Court concluded that the court of appeals was wrong in deciding that the district court did not need to defer to the plan administrator's revised interpretation of the Xerox plan simply because the previous interpretation--the phantom account method--had been incorrect.

The *Conkright* case is important because it reaffirms the discretion plan administrators must be given under ERISA to interpret their plans. The Supreme Court's analysis should apply not only to the interpretation of plans providing for pension benefits, but also to the interpretation of plans providing for health benefits. Health plans may be subject to revisions as the recently enacted health care reforms take effect, and such revisions could lead to litigation. While litigation may cover a variety of matters, the discretion given plan administrators is less likely to be an issue. Under *Conkright*, courts called upon to consider plan administrators' interpretations of their plans should continue to apply a deferential standard of review.

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