

## Sixth Circuit Decision Highlights Fiduciary Duties in Handling Premiums and Disclosing Information

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### KEY TAKEAWAYS

- Mishandling of premiums can lead to breach of fiduciary duty claims under ERISA against employers.
- Information beyond what is required to be disclosed by ERISA may need to be provided by plan fiduciaries in certain circumstances.
- ERISA claims asserting breach of fiduciary duty against employer-plan sponsors continue to be a hot topic for litigation and audits.

On April 12, 2022, the Sixth Circuit decided *Chelf v. Prudential Ins. Co. of Am.*, \_\_\_ F.4th \_\_\_ (6th Cir. 2022), which involved breach of fiduciary duty claims against an employer. The district court dismissed the claims, concluding that the alleged wrongdoings were purely ministerial functions or fell outside of ERISA's fiduciary requirements. On appeal, the Sixth Circuit divided the plaintiff's breach of fiduciary duty claims into two categories: (1) mishandling of plan assets (premiums); and (2) failure to disclose information.

The court first reversed the dismissal of the claim relating to the mishandling of premiums on the basis that the employer was not performing "purely ministerial functions." Rather, the employer acted in a fiduciary capacity because it (1) exercised control over the plan's assets when handling the premiums; (2) exercised control over the plan's asset disposition; and (3) had discretionary authority over the plan administration and denial of claim appeals. Accordingly, the court found that the plaintiff sufficiently alleged a breach of fiduciary duty claim against the employer for premium improprieties and failure to correct errors in plan administration.

However, the court affirmed the dismissal of the claim for breach of fiduciary duty based on failure to disclose information. The court noted that there might be a duty to disclose information even when such disclosure is not expressly required under ERISA, such as when an employer on its own initiative provides misleading or inaccurate information. However, the Sixth Circuit held that the facts alleged in the complaint did not support a finding of breach of fiduciary duty because the complaint did not allege that the employer omitted information or provided misleading statements. In addition, the plaintiff did not point to any document or communication disseminated by the employer on its own initiative which failed to include material information or materially misled participants. As a result, the court held that the plaintiff failed to plead a claim for failure to disclose information.

*Chelf* serves as a stark reminder to employers regarding the importance of appropriately handling employees' premiums, making disclosures of pertinent information, and not misleading plan participants. Failure to do so exposes employers to an increased risk of becoming subject to asserted breach of fiduciary duty claims under ERISA.

As always, please contact the authors or your Miller Canfield attorney if you have any questions.