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United State Supreme Court Confirms ERISA Fiduciary's Continuing Duty To Monitor Investments

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In its Tibble v. Edison International decision the United State Supreme Court confirmed that the scope of an ERISA fiduciary's duty of prudence continues after initial investments are made and imposes an ongoing duty to monitor investment performance and replace poorly performing holdings.

The Supreme Court held that "[u]nder trust law, a trustee has a continuing duty to monitor trust investments and remove imprudent ones. This continuing duty exists separate and apart from the trustee's duty to exercise prudence in selecting investments at the outset." Tibble v. Edison Int'l., 135 S.Ct. 1823 (2015).

Edison International's 401(k) plan invested in a series of mutual funds in 1999 and in another series in 2002. Edison employees filed suit in 2007 alleging that Edison and its fiduciaries should have invested in "wholesale" funds with lower management fees rather than the "retail" funds in which the plan had invested.

Edison and the fiduciary defendants argued that ERISA's six year statute of limitations time-barred plaintiffs' breach of fiduciary duty claims. Edison acknowledged that the fiduciary duty of prudence required periodic monitoring, but argued that such duty required reevaluation of investments only in the event of a significant change.

The Supreme Court underscored the duty of prudence governing ERISA plans and found that the basic concept of prudence clearly compels continued monitoring of all assets, holding that an "act" or "omission" under ERISA is not limited to the initial selection of investments. The Court noted that a "trustee must systematically consider all the investments of the trust at regular intervals to ensure that they are appropriate…" and when ""the trust estate includes assets that are inappropriate as trust investments, the trustee is ordinarily under a duty to dispose of them within a reasonable time."

Claims for breach of fiduciary duty under ERISA are timely as long they are filed within six years of the alleged breach of continuing duty.

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