To: Our Clients and Friends

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Supreme Court Considers Important Fiduciary Issues Under ERISA

In *CIGNA Corp. v. Amara* (May 16, 2011), an employee class action lawsuit, the Supreme Court discussed fiduciary disclosure requirements, the level of harm participants must show to prevail in a claim of breach of fiduciary duty, and remedies available to participants harmed by a fiduciary breach under ERISA.

The opinion points up the importance of thorough compliance with an employer's fiduciary duty to participants under an employee benefit plan. If the plan administrator's disclosures to participants had been clear and complete, there would have been no legal basis for the participants' claim in this case.

The facts. In this case, the employer amended its defined benefit pension plan to change the benefit structure. The plan administrator provided participants with a summary plan description and other notice of the plan amendment required by ERISA, but did not explain several changes that could have detrimental effects on the benefits of older long-term employees.

The Court's ruling on fiduciary breach. The Court ruled that the plan administrator breached its fiduciary duty under ERISA by failing to notify participants of the potential material reductions in future benefits due to the plan amendment.

The Court's rulings on available remedies. The Court determined that the participants could not prevail under the ERISA provision that authorizes participants to sue for benefits provided under a plan because the plan did not provide for the benefits the participants sought, and a court cannot require an employer to amend a plan to add such provisions.

The Court went on to state that the participants could pursue a claim under ERISA's general provision for equitable relief and sent the case back to the trial court to determine this issue.

The Court's guidance to the trial court.

- Under ERISA, plan participants are not always required to show that they detrimentally relied on the fiduciaries' representations; however, they must always show that they have been actually harmed in order to prevail. The Court left open the nature of proof that will be required to show actual injury. An interesting question remains whether a participant may bring a class action alleging a breach when actual injury to the entire class must be proven.
- The fact that a remedy is measured in money is not a bar to equitable relief under ERISA. Under current law, equitable relief is generally available only when payment of money is insufficient, and is framed in terms of requiring the defendant to do something, such as requiring a labor union not to strike or requiring an employer to stop an unfair labor practice. If no action other than payment of money is appropriate to remedy a harm done to participants under ERISA, the Court stated that payment of money can constitute appropriate equitable relief, based on earlier principles of trust law.

It remains to be seen how the trial court will address these issues on rehearing in this case.

If you have any questions regarding anything discussed in this Alert, the attorneys and other professionals of the Employee Benefits and Executive Compensation group of Bryan Cave LLP are available to answer your questions.

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