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# Torrillo & Associates

Benefit Plan Audit Specialists

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## Plan Fiduciary Update: International Paper Settles Suit Over 401(k) Plan



Photo by Josh Beasley  
(silenus81 on Flickr)

## International Paper Co. in Deep Water

[The Wall Street Journal](#) reported that International Paper Co. agreed to a \$30 million settlement in a suit over the company's 401(k) Plans. The company agreed to distribute the money among some 70,000 individual workers and former participants' accounts as well as put the plan's administration out to bid. The claim alleged that International Paper maintained its own publicly traded stock as an investment option, paid "excessive" fees for recordkeeping and investment management, and "fraudulently" reported performance histories for the plans' fund. The plaintiffs also claimed that the company improperly delayed making contributions to the plans and retained interest earned on those contributions for corporate accounts. International Paper Co. denied all the claims, according to the settlement, and believed the fees paid to the plan's service providers are "prudent and reasonable" and that its 401(k) plans have offered "a broad portfolio of prudent investment options."

The article states that workers have filed claims against more than two dozen retirement savings plans in recent years over allegedly high fees and unsuitable investments. The cases are now working their way through the courts. Workers are becoming more aware of how high fees' chip away at retirement savings. Claims have been made against numerous service providers for

costly proprietary funds, for poor performing proprietary funds, and for retaining float income (interest generated by workers assets during transfers or redemptions).

## Fiduciary Responsibilities

While most of these lawsuits have been against very large plans, the article states that the “duty of an employer when they offer a 401(k) plan is very real, and there’s a high level of obligation to the employees. And courts are recognizing this more and more.”

Plan sponsors should perform their fiduciary responsibilities with the key objective of looking out for the best interest of their participants. A best practice is to keep contemporaneous documentation of key decisions made by the fiduciaries. If contemporaneous documentation is kept stating the reasons why the fiduciaries at the time thought fees were reasonable or investment options were prudent, it will likely be much more difficult for someone later to state that the fiduciary was not attempting to carry out their responsibilities.



[h6a]If you have any questions on this post or other matters of which we can be of service, please [Contact Us](#)[/h6a]



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## Who We Are

Torrillo & Associates, LLC specializes in employee benefit plan audits including 401k audits, 403b audits, pension plan audits, and other retirement plan audits. We are licensed in 10 states including Pennsylvania, New Jersey, Delaware, New York and Florida. We are also able to practice in additional states that have passed firm mobility.

## Recent Articles

- [Executive Order Issued to Expand Access to Alternative Assets for 401\(k\) Investors](#)
- [DOL Promotes New On-Line Self-Correction Program](#)
- [DOL Files Amicus Brief Supporting Use of Forfeitures to Reduce Employer Contributions](#)
- [US Department of Labor Rescinds 2022 Guidance on Cryptocurrency in 401\(k\) Plans](#)

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