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Torrillo & Associates

Benefit Plan Audit Specialists

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Recent Legal Cases of Interest to Plan Sponsors



There have been several recent legal developments which plan sponsors should be aware.

- Putnam investments has asked the Supreme Court to weigh in on who is responsible for bearing the burden of proof whether investment losses resulted in losses to 401(k) plan participants. Certain circuit courts have ruled that it is the legal responsibility of the plaintiffs (participants) to prove the fiduciaries of the Plan did not take proper action, establishing a higher hurdle for a case to proceed. However, other circuit courts have ruled it is the responsibility of the defendants (plan sponsors) to prove they did prudently fulfill their fiduciary responsibilities, making it easier for plaintiff's cases to proceed. With the circuits divided, it looks like the Supreme Court may take up the case. Please see the article from [Benefits Pro, "Still waiting word on Putnam's request for review in 401\(k\) case."](#)
- Georgetown University became the latest defendant to win its lawsuit over allegedly excessive retirement-plan fees in its 403(b) plan. Please see the article in [Investment News, "Have 403\(b\) lawsuits hit a wall? Fifth university wins dismissal."](#)
- The Supreme Court recently refused to take up a ruling against USC which was seeking to force arbitration of those individuals claiming that its 403(b) plan has excessive fees and avoid class-action exposure. Please see the article from [Benefits Pro, "SCOTUS will not review USC 403\(b\) Case."](#)
- Lawsuits filed against MetLife, American Airlines, Pepsi and US. Bancorp highlight scrutiny of the mortality tables pension plans use in determining benefits. Please see the article from [Bloomberg Law, "Pensioners' Suits Say Outdated Mortality Data Shortchange Them."](#)



Plan sponsors should continue to work with their advisors and ERISA counsel to stay up to date on these developments.



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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

- [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](#)
- [DOL Issues Guidance on Missing Participants and Transfers to State Unclaimed Property Funds](#)

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