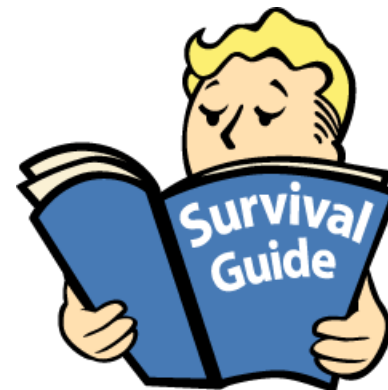


How Advisers Can Leverage the Recent 401k Litigation



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Your Presenter Today

- Charles G. Humphrey, JD



Your Hosts Today

- Facilitator:
Chuck Gouge



- Question Board Moderator
Joanne Pecina



During the webinar

- All attendees lines are muted
- Question board available and monitored
 - Please send in questions
 - We will answer as many submitted questions as possible
- Follow up questions and comments can be sent to:
 - support@erisapedia.com

Introduction/Agenda

- Challenges & opportunities
- Litigation & investigation avoidance
- Adviser role

Adviser Ecosystem

- Marketplace pressures
- Margins
- Fiduciary rule
- Litigation

ERISA Fiduciary Standard

- The problem
- Prudent man standard of care
- Fiduciaries are on their own

ERISA Fiduciary Standard

- Act solely in the interest
- Exclusive purpose of providing benefits
- Pay reasonable expenses
- Care, skill, prudence, diligence

Is your process good enough?

- Key elements
 - Meet regularly
 - Education
 - Use of experts
 - Documentation

Is your process good enough?

- Vulnerabilities surfaced in 2016
 - Leverage
 - Homework
 - Not seeing the future

Leverage Fails

- Use of asset size to lower fees
- Cheap may not be cheap enough
- Key questions for plan sponsors

Bell v. Anthem

Have you done your homework? (Part I)

- Understanding costs & investments
- Excessive fees
- Inexperienced TDF managers

*Johnson et. al. v. Fujitsu Technology
and Business of America, Inc. et. al.*

Have you done your homework? (Part II)

- Deviation of fund investments from typical mix
- Reading labels
- Plan sponsor obligations

*Ellis v. Fidelity Management
Trust Company*

Crystal Ball “Fails”

- *Pledger v. Reliance*
- *White v. Chevron*
 - *Are plan fiduciaries really required to know the future?*
 - *Money market v. stable value funds*

The Import of the Litigation

- Some will fail
- Process/procedure will be more closely examined
- Play defense

What Can Advisers Do to Help Clients?

- Build on your base, then
 - Refine processes
 - Help clients leverage
 - Document
 - Educate your clients

Conclusion



Questions?



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