

Lessons from Recent Litigation for TPAs and Plan Sponsors

Presented by:
Charles G. Humphrey, J.D.



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Lessons from Recent Litigation for TPAs and Plan Sponsors

- Co-hosts:

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During the Webinar

- All attendees' lines are muted
- We will try to answer questions as we go. Send questions to all panelists.
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Your Presenter Today

Charles G Humphrey, J.D.



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Introduction

- Last year was clarifying
- Warning lights
- New things

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The Litigation Environment

- It's about the money
- It's not just about the money
- The plaintiff's bar strikes – and strikes

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**Common Themes in
401(k)/ 403b Litigation**


- Mostly good year for defendants
- Common sense prevails
- Process protects
- Disclosure protects


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Pay to Play –Infrastructure Fees

- Unrelated mutual funds pay to be on Fidelity platform
- Is Fidelity a self-dealing plan fiduciary?
- Disclosures and and general plan sponsor duty of due diligence


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The Myth of the 3-Year RFP


- The prudence standard
- Facts and circumstances
- Keeping tabs
- Take-aways


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Use of Participant Data

- Individual participant data has value
- Is it a plan asset?
- Implications of Vanderbilt settlement

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The Other Threat –DOL Enforcement


- 1.6 billion recovered in 2018
- Enforcement activity robust
- Terminated Vested Participant Project
- GAO report

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Cybersecurity and 401(k) Plans

- News reports of attacks
- Issue can't be ignored
- FTC proposal implications

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Protective Actions

- Build a defensive structure
- Identify and correct weaknesses
- Communicate
- Educate
- Keep on top of developments

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Questions?




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