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Supreme Court ruling limits lawsuits over benefits

Staff *Charlotte Business Journal*

Local employee-benefits lawyers say a recent decision by the **U.S. Supreme Court** will mount pressure on employees to appeal denied benefits claims on a timely basis.

The court's February ruling in *Heimeshoff v. Hartford Life & Accident Ins. Co.* addresses the question of when the statute of limitations begins to run for a judge to review a benefits-denial appeal under the Employee Retirement Income Security Act. ERISA governs employer-provided benefits plans.

"This is a very onerous opinion," says [Norris Adams](#), a partner and ERISA specialist at Charlotte law firm **Essex Richards**.

"Right now, people may be pursuing these claims unaware that time is ticking away on their right to file suit if their claim is ultimately denied," he says. "The result of this case is you can have a situation where the statute of limitations is running against you where you don't have an opportunity to sue, which doesn't make sense."

In the case before the Supreme Court, Julie Heimeshoff became ill and had to stop working as a public-relations manager for **Wal-Mart Stores** Inc. Hartford Life & Accident administered her plan. The disability-insurance plan stated a lawsuit had to be filed within three years of the date of "proof of loss." Because of extended dealings between Heimeshoff and the insurer, the internal process took longer than usual.

Heimeshoff submitted her claim in August 2005, which was denied in November 2007. She sued in November 2010.

Heimeshoff's attorneys argued that because the plan is governed by ERISA and the law doesn't include a statute of limitations, Heimeshoff had more time to file suit than nine months after Hartford's denial.

The court ruled that when a plan under ERISA specifies a limitations period, that period — including the date it begins to run — is enforceable unless it is "unreasonably short." In this case, the period was three years, which was not shown to be unreasonably short.

But Adams argues it could be unreasonably short. The ruling, he says, is a reversal of what the law has been in the Fourth Circuit, which covers North Carolina cases, and it will make it harder for

employees appealing a claim denial to prevail.

Because employees are prevented from suing their insurer until after they've exhausted the internal-appeals process, Adams says the effect of the ruling is unfair.

"You can't start a statute of limitations running when someone doesn't even have the right to sue yet," he says. "You are going have situations where plaintiffs are facing a decision to go ahead file and risk being dismissed for not exhausting administrative process or risk running out the statute of limitations."

Several Charlotte attorneys who represent insurers declined to speak about the recent ruling, citing privacy requirements by their relationship with their clients.

Employers tend to favor such limits to avoid facing the risk of litigation for an unspecified time.

[Mac Sasser](#), an insurance-litigation lawyer who leads The Sasser Law Firm, traveled to Washington in October to listen to arguments before the Supreme Court. He says the new decision creates significant uncertainty over when the statute of limitations for filing a lawsuit begins and will ultimately lead to more litigation.

"This decision is going to affect a large group of people across the United States and the way the statute of limitations is calculated for these benefit plans," Sasser says.

"Despite the lack of hoopla, its impact is great. Sorting it out will take years," he adds.

While it's valuable to have some new insight into how the Supreme Court views the deadline to file a lawsuit, Sasser says the ruling also creates uncertainty for insurance companies and employers, who appear at first glance to be the winners in this case.

"The deadline for when the period begins that an employee can file suit is now quite blurry, and it's set by these plans, which are all over the map on when that can begin," Sasser says. "It's not just the employee that's vague on what the time period is for appeal. The employer and insurance companies are not going to know either. The fact pattern in each case can vary, and it's hard to get a date everyone can agree on."

[Cathy Graham](#), director of benefit services at **The Employers Association**, says the ruling has not yet made a splash in the benefits world. In her experience, most people who make claims for long-term disability receive the benefit.

"It's not a difficult benefit to get if you are truly injured or have an illness, even from a mental-health benefit," Graham says. "Yes, you have to jump through hoops. I have not known many to be denied, unlike Social Security disability, where you have to try multiple times."

Adams doesn't agree. "Denial of long-term benefits happens all the time," he says.