SCOTUSwiki Analysis of and Information About the Supreme Court's 2009-10 Term
Employment and Labor Related Cases:
ERISA

Submitted by

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Conkright v. Frommert

From ScotusWiki


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Docket: 08-810

Issues: 1. Whether the Second Circuit erred in holding, in conflict with decisions of this Court and other Circuits, that a district court has no obligation to defer to an ERISA plan administrator’s reasonable interpretation of the terms of the plan if the plan administrator arrived at its interpretation outside the context of an administrative claim for benefits.

2. Whether the Second Circuit erred in holding, in conflict with decisions of other Circuits, that a district court has "allowable discretion" to adopt any "reasonable" interpretation of the terms of an ERISA plan when the plan interpretation issue arises in the course of calculating additional benefits due under the plan as a result of an ERISA violation.

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Briefs and Documents

Decision

REVERSED AND REMANDED in a 5-3 decision with an opinion written by Chief Justice Roberts. Justice Breyer dissented, joined by Justices Stevens and Ginsburg. Justice Sotomayor took no part in the decision. (April 21, 2010)

Oral Argument

Transcript (January 20, 2010)

Merits Briefs

- Brief for Petitioner Sally L. Conkright, Patricia M. Nazemetz, Lawrence M. Becker and Xerox Corporation Retirement Income Guarantee Plan
- Reply Brief for Petitioner Sally L. Conkright, Patricia M. Nazemetz, Lawrence M. Becker and Xerox Corporation Retirement Income Guarantee Plan
Amicus Briefs

- Brief for the Erisa Industry Committee and American Benefits Council in Support of Petitioner
- Brief for the Business Roundtable, Chamber of Commerce of the United States of America, and the National Association of Manufacturers in Support of Petitioner
- Brief for Janice C. Amara, Gisela R. Broderick, Annette S. Glanz, et al., and the Pension Rights Center in Support of Respondents
- Brief for AARP in Support of Respondents
- Brief for National Employment Lawyers Association in Support of Respondents
- Brief for the United States of America in Support of Respondents
- Brief for Law Professors in Support of Respondents
- Brief for Richard C. Capone in Support of Respondents

Certiorari-Stage Documents

- Opinion Below (2nd Circuit)
- Petition for certiorari (08-810)
- Brief in opposition (08-810)
- Brief in opposition of 62 respondents and 7 cross-respondents (08-810)
- Petitioner’s reply (08-810)
- Petitioner’s supplemental brief (08-810)
- Brief amicus curiae of Business Roundtable (in support of petitioners in 08-810)
- Brief amicus curiae of the United States (recommending that certiorari be denied)

Opinion Recap

Martine Cicconi originally wrote the following for SCOTUSblog:

On April 21, the Court issued its opinion in Conkright v. Frommert, holding that a plan administrator’s interpretation of a retirement plan is entitled to deference, even when the administrator has previously offered an erroneous reading. Dividing on ideological lines, the Court reversed the Second Circuit, which had held that no deference was required when the administrator had misconstrued the plan at an earlier stage in the litigation.

In an opinion by Chief Justice Roberts, the Court began by noting that, because the text of ERISA is inconclusive, it should look to the principles of trust law to determine whether deference was appropriate. Under trust law, the Court found, whether deference to the administrator’s interpretation is warranted would depend on the terms of the plan itself: when, as here, the plan requires deference, the court should act accordingly.

Deeming the Second Circuit’s approach a “one strike and you’re out approach,” the Court characterized the lower court’s decision as inconsistent with the purposes of ERISA, the terms of the plan, and the principles of trust law. Under doctrines of trust law, the Court concluded, a trial court should reject the administrator’s construction only if bad faith were shown. Moreover, the purposes of ERISA counseled in favor of deference. When enacting ERISA, the Court noted, Congress intended to encourage companies to establish retirement plans. As such, ERISA represents a “careful balancing between ensuring fair and prompt enforcement of rights under a plan and the encouragement of the creation of such plans.” By permitting an employer to rely on the administrator for primary interpretive authority, deference to those interpretations preserves the “careful balancing on which ERISA is based.”

Respect for the administrator’s view, the Court found, “promotes efficiency by encouraging resolution of benefits disputes through internal administrative proceedings rather than costly litigation.” It also promotes predictability and uniformity in judicial decisions.

The Court dismissed as “overblown” the employees’ argument that its interpretation would encourage employers to game the system by providing employers with an incentive to offer unreasonable constructions in the first instance. The Court explained that deference did not necessarily mean that the plan administrator’s construction would prevail on the merits; rather, it meant only that the plan administrator’s interpretation would be upheld if reasonable. Thus, deference would not encourage deceptive behavior or unfairly skew litigation in favor of employers.

Because it reversed the Second Circuit’s holding, the Court declined to reach the second question raised in the case – whether the court of appeals applied the appropriate standard when it reviewed the district court’s decision.
Justice Breyer filed a dissenting opinion, which was joined by Justices Stevens, and Ginsburg; Justice Sonia Sotomayor did not participate in the decision. In his dissent, Justice Breyer argued that the majority’s reliance on the principles of trust law was misplaced. Far from demanding deference in all circumstances, Justice Breyer noted, trust law “imposes no such rigid or inflexible requirement.” Instead, it “grants courts the authority either to defer anew to the trustee’s discretion or to craft a remedy” when a trustee has abused its discretion with respect to his interpretation of the trust terms. Unlike the majority, moreover, Justice Breyer agreed with the employees that the Court’s holding would “create[] incentives for administrators to take ‘one free shot’ at employer-favorable plan interpretations.” Such incentives, Justice Breyer concluded, would not further Congress’s purpose of “promot[ing] the interests of employees and their beneficiaries in employee benefit plans.”

**Argument Recap**

The following originally appeared on SCOTUSblog.

On Wednesday, the Court heard argument in *Conkright v. Frommert*. Arguing for the petitioners (Xerox’s ERISA plan administrators), Robert Long contended that Second Circuit “got it backwards” when it afforded deference to the district court’s – but not the Plan Administrator’s – interpretation of the company’s ERISA plan. Almost immediately, Justice Scalia challenged Long, asking whether the law required the district court to send a plan back to the administrator no matter how many times he offered an incorrect interpretation. Long cited the principles of trust law to support his position, but Justice Scalia remained unconvinced: “I can’t believe that’s what the law is.”

Justice Breyer also appeared unpersuaded, pointing to the Solicitor General’s argument that, when the Plan Administrator erroneously interprets a plan, the district court may decline to defer to his subsequent interpretation. Such a reading, Justice Breyer noted, “make[s] sense.” Chiming in, Justice Alito wondered “how many shots the plan administrator . . . gets to try to answer this question.”

The argument then turned from abstract principles to the details of the case itself. Justices Ginsburg and Scalia queried whether the Plan Administrator’s second interpretation of the Plan referred to the same language as the first interpretation. Justice Scalia appeared persuaded by Mr. Long’s explanation that the second interpretation involved different terms because the Second Circuit had struck from the plan the language which the Administrator had originally interpreted. Seeking to understand the basis for the district court’s decision, Justice Kennedy asked whether the administrator’s interpretation was best described as a question of law or instead as one of fact. Mr. Long responded that whether the administrator’s interpretation of the terms was reasonable was a question of law.

Defending the Administrator’s second interpretation of the Plan, Mr. Long explained that the time value of money is a concept central to pensions. Justice Alito countered that the assumption that their pensions would be offset only by the nominal amount of prior distributions may have lured the petitioners back to employment at Xerox. Such an assumption, Mr. Long responded, was “ridiculous” because “no employer would do that to current employees.”

Speaking for the respondents, Peter K. Stris faced questioning from the Chief Justice, who asked whether a Plan Administrator offering two alternative interpretations of plan terms would be entitled to deference on both. Mr. Stris replied that deference would be appropriate in that case because the administrator would have admitted uncertainty and offered both interpretations simultaneously. The Chief Justice then suggested that it would be “odd” to encourage administrators to offer a number of inconsistent interpretations. Backtracking a bit, Mr. Stris responded that indeed a “fallback” interpretation on the same terms should not be entitled to deference, and that in this case the district court had properly exercised its discretion not to defer.

At that point, Justice Alito asked Mr. Stris to what factors a district court should use to determine whether to give an administrator a second chance to interpret a plan. Mr. Stris responded that the first factor was whether the second interpretation involved the same terms as the first. Revealing his satisfaction with Mr. Long’s response on this point, Justice Scalia countered that the second interpretation in this case did not involve the same terms as the first. He suggested that Mr. Stris had changed his position when he argued that the court of appeals had prohibited the administrator from calculating benefits using any appreciated offset, and thus the administrator’s second interpretation was identical to his first in relevant part. After attempting to allay Justice Scalia’s skepticism, Mr. Stris returned to his recitation of the relevant factors, citing the presence or absence of factual disputes and regulatory infractions.

Concluding, Mr. Stris argued that the petitioners seek to replace the venerated trust-law principle permitting a district court to eschew deference in light of an abuse of discretion by the Plan Administrator in favor of a bright-line rule requiring deference in all cases. The Chief Justice pointed out that “defer” does not mean that the administrator’s interpretation is always adopted; the