

JUNE 29, 2009

RECENT, RELEVANT, PROFESSIONAL LINES LAW FOR SUBSCRIBERS

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- Directors & Officers
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- EPL- Labor & Employment
- Fiduciary / ERISA
- Financial Institutions

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FIDUCIARY / PENSIONS

Illinois – June 17, 2009. Motorola Wins ERISA Suit by its Employee

Stockholders on Sour Deal. Motorola officials did not breach their fiduciary duties under ERISA by continuing to offer their stock fund as an investment to employees in their 401(k) plan after a major deal crumbled. The federal district court determined that it was not improper to fail to disclose information concerning the deal to plan participants because the officials had not, as fiduciaries, provided the participants with any materially misleading information that they had to correct. The officers alleged inaction did not misrepresent the financial health of the company so as to constitute a breach of their fiduciary duties under ERISA.

Lingis v. Motorola, Inc., 2009 WL 1708097 (N.D. Ill.)
No PDF available

EPL – LABOR & EMPLOYMENT

United States Supreme Court – June 25, 2009. Injured Seaman Entitled to Punitive Damages for Employer's Wilful and Wanton Conduct.

A seaman injured while working on a tugboat is entitled to seek punitive damages based on general maritime law. The seaman alleged his employer engaged in willful and wanton disregard of its maintenance and cure obligation. The high court ruled that no case law or statute had eliminated the availability of punitive damages as an acceptable remedy under maritime law.

Atlantic Sounding Co., Inc. v. Townsend, --- S.Ct. ----, 2009 WL 1789469 (U.S.)

Florida – June 22, 2009. The Florida District Court considered for the first time whether an alleged employee with clout and authority can sue his alleged employer based on his claimed status as an employee under the Fair Labor Standards Act ("FLSA"). The plaintiff was in charge of a major branch of the business, attended scheduled partner meetings, and held himself out to be a partner of the firm even though there was no partnership agreement. Even his salary increases were tied to the firm's profits. Prior to leaving the firm, the plaintiff worked from home and chose the projects he wanted to work on for a percentage of the project rate. Based on these facts, the court determined that he could not recover overtime wages as an employee under the FLSA because he was indeed a partner.

Escobar v. GCI Media, Inc., 2009 WL 1758712 (S.D. Fla.)
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