

NEWS

Gwaltney Addresses Dudenhoeffer Ruling

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Law360 published Litigation Member Larry Gwaltney's commentary on the impact of the Supreme Court's Fifth Third Bancorp v. Dudenhoeffer ruling. The piece, entitled "Lawyers Weigh In On High Court's ERISA Ruling," published on June 25, the same date as the ruling.

"The most obvious significance is the overturning of a presumption that existed for close to 20 years in every Federal Circuit that considered the issue. The greater significance is the continuing viability of stock-drop claims based on allegations that fiduciaries should recognize from publicly available information that employer stock was overvalued. The court said those types of claims are implausible in the absence of special — and not defined — circumstances. Also of significance was the court's rationale — that ERISA's prudence requirement is not trumped by directions in plan documents. Directed fiduciaries in particular may need to reconsider how they handle directions received from sponsors and others in light of Dudenhoeffer," Gwaltney stated.