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# R E C E N T C A S E S

## *ERISA preempts Illinois law for HMO claims*

By Dana Rhodes

In *Anderson v. Humana, Inc.*, 24 F.3d 889 (7th Cir. 1994), the U.S. Circuit Court of Appeals held that health maintenance organization ("HMO") subscribers cannot state a claim for damages under Illinois law for statements relating to a medical benefits package regulated by the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1144. In its ruling, the court recognized that ERISA preempts state claims challenging deceptive information practices by HMOs. Furthermore, it found no exemption to ERISA preemption exists for such claims under provisions allowing states to regulate insurance.

### **Complaint dismissed**

Vernita Anderson enrolled in the Humana-Michael Reese HMO offered as part of her employer's medical benefits package. Subsequently, she filed a complaint in state court against the HMO and its sponsor, Humana Inc., alleging fraud in violation of the Illinois Consumer Fraud and Deceptive Business Practices Act, Illinois Compiled Statutes chapter 815, section 505, and state common law. In her complaint, Anderson contended that HMOs were deceptive by nature, or alternatively, that the information HMOs provided to prospective enrollees failed to explain accurately the incentive structures under which they operate. The complaint sought damages on behalf of a class of persons who elected the Humana HMO over

another health provider. The defendant HMO quickly removed the action to federal court, contending that the information employees use to select HMO benefits "relates to" a plan regulated by ERISA, which explicitly preempts state remedies. 29 U.S.C. § 1144(a).

The U.S. District Court for the Northern District of Illinois held that the suit was properly removed to federal court. Furthermore, it dismissed the complaint for failure to state a claim upon which relief may be granted as Anderson, basing her claim solely on preempted state law, declined to address the ERISA issue. In making its ruling, the district court failed to certify a class action, treating Anderson as the sole plaintiff. Anderson then made a timely appeal to the United States Court of Appeals for the Seventh Circuit.

The Seventh Circuit addressed this failure to certify the class action. Ordinarily, when a lower court reserves decision on certifying a class action, its ruling on the merits of the case is not final. Only final rulings are appealable. In this case, the Seventh Circuit concluded that the district court reserved no issue for further decision. As a result, the lower court's decision was final and the matter was properly appealable. This allowed the Seventh Circuit to find it had jurisdiction over the case.

### **ERISA preempts state law**

Turning to the merits of the case, the Seventh Circuit affirmed the district court's dismissal of Anderson's complaint. It held that

her state law claim was both preempted and properly removed to federal court.

In beginning its analysis, the circuit court found that preemption was proper under the rationale of *Metropolitan Life Ins. Co. v. Taylor*, 481 U.S. 58 (1987). In *Metropolitan*, the United States Supreme Court held that because ERISA expressly preempts state law, a claim involving a plan regulated by ERISA cannot avoid removal to federal court even when presented as a state claim. Applying the Court's reasoning to the present facts, the Seventh Circuit concluded that Anderson's claim, involving an HMO plan regulated by ERISA, could properly be removed even though it was originally pled as a violation of Illinois state law.

Moreover, the court recognized that any lawsuit attempting to control information about benefits provided by employers to employees falls squarely within ERISA's preemption clause. It concluded that Anderson's suit attempted to change the type or amount of information provided by employers to employees regarding Humana's HMO. Therefore, her claim was clearly preempted by federal law.

### **No preemption limits**

On appeal, Anderson argued that Humana should be held to the Illinois standards for insurers. She contended that HMOs spread risk across patients and time like other insurers, and therefore, should be exempt from ERISA regulation.

In determining whether Anderson's claim fell within a state

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regulation of insurance exemption, the circuit court acknowledged that the ERISA preemption clause has limits, the principal one reserving state authority to regulate insurance. However, after reviewing the definitions of "insurance" and "regulation," the circuit court found Anderson's argument unpersuasive. Because ERISA failed to define either "insurance" or "regulation," the court turned to a similar statute, the McCarran-Ferguson Act, which also permits state regulation of insurance, for guidance. On the basis of this statute, the court determined that "insurance" requires a risk pooling

component and state regulation is restricted to this domain.

Anderson, however, had not relied on any state law regulating the methods of pooling risks or prices to be charged in her complaint. Rather, she had based her argument on an all-purpose truth-in-business statute. Finding this statute more applicable to used car salesmen and promotional literature for vacuum cleaners than HMOs, the court reasoned that the truth-in-business statute did not directly apply to insurance at all. Therefore, it held that her complaint did not fall within

an exception to ERISA preemption on the basis of the state authority to regulate insurance.

The court concluded that Anderson's state law claim, relating to a medical benefits package regulated by ERISA, was preempted by federal law. Furthermore, the circuit court did not find any exemption to federal preemption based on state authority to regulate insurance. It affirmed the district court's dismissal of Anderson's claim for failure to state a claim upon which relief may be granted.

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## Car lessees' early-termination rights spelled out

By Jennifer L. Fitzgerald

In *Highsmith v. Chrysler Credit Corp.*, 18 F.3d 434 (7th Cir. 1994), the Seventh U.S. Circuit Court of Appeals held that a cause of action under the Illinois Consumer Fraud Act accrues when an automobile lessee knows or reasonably should have known that the lessor misrepresented its rights and liabilities to the lessee. Moreover, the court found that a lessee, demonstrating no intent to terminate an automobile lease, lacks standing to seek a declaratory judgment on whether an early termination provision violates state law. However, the court recognized a lessee's right to state a claim for inadequate disclosure of the contract's termination formula and any manufacturer's warranties under the Consumer Leasing Act.

### Harmful provisions

The plaintiffs in this consolidated action, Kevin and Macita Highsmith and Joseph Villasenor, each signed a consumer automobile lease with the Chrysler Credit Corporation ("Chrysler"). In both cases the disputed lease stated that the lessee, on either condition of default or early termination, would be liable for early termination charges calculated according to the provisions of the lease.

Kevin and Macita Highsmith signed a four-year lease for a Plymouth Sundance on March 10, 1987. Eighteen months later they filed a Chapter 13 bankruptcy petition and named Chrysler as one of their creditors. The bankruptcy court entered an order rejecting the lease and Chrysler repossessed the automobile. On April 25, 1989, Chrysler, having sold the automobile, determined that the Highsmiths had terminated their lease. It contended that the Highsmiths were liable for an additional \$5,400 in penalty fees under the early termination provisions of their lease.

Chrysler subsequently filed suit in state court to recover the alleged deficiency. However, after the Highsmiths refiled their bankruptcy petition, Chrysler dismissed its complaint to comply with the conditions of the bankruptcy proceeding. The Highsmiths then brought an adversary action against Chrysler, alleging that the automobile lease violated both federal and state law. The bankruptcy court found these claims beyond the scope of its jurisdiction, and the suit was moved to federal court.

Subsequently, the Highsmiths amended their complaint, adding Joseph Villasenor as a plaintiff. Villasenor, like the Highsmiths, had signed a four-year lease with Chrysler. However, he did not seek to terminate this lease nor did he express any intent to do so. Rather, Villasenor only sought a declaratory