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Supreme Court Says 401(k) Participants Can Sue

By THE ASSOCIATED PRESS
Published: February 20, 2008

Filed at 11:19 a.m. ET

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WASHINGTON (AP) -- The Supreme Court ruled Wednesday that individual participants in the most common type of retirement plan can sue under a

pension protection law to recover their losses.

The unanimous decision has implications for 50 million workers with \$2.7 trillion invested in 401(k) retirement plans.

James LaRue of Southlake, Texas, said the value of his stock market holdings plunged \$150,000 when administrators at his retirement plan failed to follow his instructions to switch to safer investments.

The issue in the LaRue case was whether the Employee Retirement Income Security Act permits an individual account holder to sue plan administrators for breaching their fiduciary duties.

The language of the law refers to recovering money for the "plan" rather than for an individual, raising the question of whether a participant can sue solely for himself.

Justice John Paul Stevens, in his opinion for the court, said that such lawsuits are allowed. "Fiduciary misconduct need not threaten the solvency of the entire plan to reduce benefits below the amount that participants would otherwise receive," Stevens said.

The decision overturned a ruling by the 4th U.S. Circuit Court of Appeals in Richmond, Va.

Unlike people enrolled in traditional pension plans, employees in 401(k) plans, which have exploded in number in the past two decades, choose from a menu of options on where to invest their money. That puts workers squarely in the middle of decision-making about their pensions and inevitably leads to the kind of disputes LaRue has with his plan's administrators.

"Defined contribution plans dominate the retirement plan scene today," unlike when ERISA was enacted in the mid-1970s, Stevens said.

Many traditional pension plans guaranteeing a fixed monthly benefit have either been frozen or terminated, and 401(k) plans are the main source of retirement income, said the Air Line Pilots Association, which represents 60,000 pilots at 41 air carriers.

The Bush administration argued in support of workers. The government said the appeals

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court ruling barring LaRue's lawsuit would leave 401(k) participants without a meaningful remedy from any federal, state or local court when plan administrators fail to live up to their duties.

Business groups supported LaRue's employer. They argued that ERISA is aimed at encouraging employers to set up pension plans, while guarding against administrative abuses involving the plan as a whole. The law doesn't permit individual lawsuits like LaRue's, the business groups said.

Congress enacted ERISA after some widely publicized failures by companies and labor unions to pay promised pensions. Workers in class-action lawsuits have long relied on the law, most recently in the scandal-ridden collapses of companies like Enron and its 401(k) plan for workers.

The term 401(k) refers to a section of the Internal Revenue Code.

Participants in 401(k) plans do not know how much money they will receive in retirement. Employees invest a certain amount each month and how much they get back depends on how well their chosen investments have performed.

The case is LaRue v. DeWolff, 06-856.

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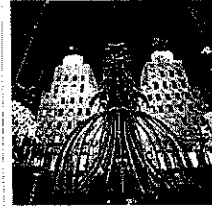
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