

UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Off. Create Corp. v. Planet Ent., LLC

140 F.4th 96 (2d Cir. 2025) · No. 24-1879 · Decided June 10, 2025

SUMMARY

This Second Circuit opinion addresses whether ERISA’s anti-alienation provision preempts New York Civil Practice Law and Rules § 5205(c)(5), which creates an exception to retirement account exemptions for judgments entered after a ninety-day look-back period. The court held that ERISA expressly preempts the state law exception because allowing creditors to reach pension plan funds would directly conflict with Congress’s clear intent to protect such assets from involuntary alienation. After resolving a threshold issue regarding appellate jurisdiction over a previously non-final order, the court affirmed the District Court’s denial of the creditor’s objection to the debtors’ claim of exemption.

CASE DETAILS

COURT	United States Court of Appeals for the Second Circuit
WRITING FOR THE COURT	Calabresi; Chin; Merriam
JURISDICTION	United States Court of Appeals for the Second Circuit
DECIDED	June 10, 2025
DOCKET	24-1879
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from the United States District Court for the Southern District of New York, No. 1:22CV08848, denial of objection to claim of exemption under ERISA.
STANDARD OF REVIEW	De novo for questions of law, including preemption; abuse of discretion review for post-judgment motions.
PRECEDENTIAL VALUE	published
PARTIES	Office Create Corporation v. Planet Entertainment, LLC; Steve Grossman

TOPICS

- appellate jurisdiction
- standard of review
- appellate procedure
- statutory interpretation
- federalism

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether ERISA preempts New York Civil Practice Law and Rules §5205(c)(5) as applied to ERISA-qualifying retirement accounts.
2. Whether the district court's order denying the objection is a final, appealable order granting the appellate court jurisdiction.

HOLDINGS

1. ERISA preempts NYCPLR §5205(c)(5).
2. The district court's order is final and appealable after Office Create withdrew its request for a hearing with prejudice.

KEY QUOTATIONS

*"Accordingly, we conclude that ERISA preempts NYCPLR §5205(c)(5). Accordingly, we conclude that the District Court did not err in denying Office Create's objection to Appellees' claim of exemption as to those accounts." (*13)*

*"Although we generally review a district court's decision on a post-judgment motion for abuse of discretion, where the determination is based upon a legal interpretation, de novo review is appropriate." (*5)*

FACTUAL BACKGROUND

Office Create Corp. obtained a money judgment against Planet Entertainment and Steve Grossman after confirming an arbitration award. It sought to restrain five Merrill retirement cash-management accounts allegedly owned by Grossman to satisfy the judgment. The respondents claimed the accounts were exempt from collection under ERISA's anti-alienation provision and that ERISA preempted New York's Civil Practice Law and Rules §5205(c)(5). The district court agreed and denied Office Create's objection.

PROCEDURAL HISTORY

Office Create Corp. obtained a judgment confirming an arbitration award and sought to restrain retirement accounts of the respondents. The district court held the accounts were ERISA-qualifying and exempt, preempting NYCPLR §5205(c)(5), and denied Office Create's objection. Office Create appealed the denial and the jurisdictional issue of finality.

DISPOSITION

affirmed

CASES CITED

- *Amara v. Cigna Corp.*, 53 F.4th 241 (2d Cir. 2022)
- *Fowlkes v. Thomas*, 667 F.3d 270 (2d Cir. 2012)

- *Stevenson v. Bank of N.Y. Co., Inc.*, 609 F.3d 56 (2d Cir. 2010)
- *Norton v. Sam's Club*, 145 F.3d 114 (2d Cir. 1998)
- *Maryland v. Louisiana*, 451 U.S. 725 (1981)
- *Liberty Mut. Ins. Co. v. Donegan*, 746 F.3d 497 (2d Cir. 2014)
- *Travelers Ins. Co.*, 514 U.S. 645 (1995)
- *Gerosa v. Savasta & Co.*, 329 F.3d 317 (2d Cir. 2003)
- *Shaw v. Delta Air Lines, Inc.*, 463 U.S. 85 (1983)
- *Boggs v. Boggs*, 520 U.S. 833 (1997)
- *Guidry v. Sheet Metal Workers National Pension Fund*, *Guidry v. Sheet Metal Workers Nat'l Pension Fund*, 493 U.S. 365 (1990)
- *Ellis Nat'l Bank of Jacksonville v. Irving Trust Co.*, 786 F.2d 466 (2d Cir. 1986)
- *VFS Financing, Inc. v. Elias-Savion-Fox 14 LLC*, 73 F. Supp. 3d 329 (S.D.N.Y. 2014)
- *Mackey v. Lanier Collection Agency & Serv., Inc.*, 486 U.S. 825 (1988)
- *Arizona v. United States*, 567 U.S. 387 (2012)