UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

# Brad Harper and Mary Deborah Harper, Husband and Wife v. American Chambers Life Insurance Company, a Group Health Insurer; United Chambers Administrators, Inc.; American Employers Association

Brad Harper and Mary Deborah Harper, Husband and Wife v. American Chambers Life Insurance Co., 898 F.2d 1432 (9th Cir. 1990) · No. No. 87-15043 · Decided March 26, 1990

## SUMMARY

The Ninth Circuit held that the record was insufficient to determine whether a partnership's health insurance policy constituted an ERISA plan. The court reversed the dismissal of the Harpers' state-law claims and remanded for factual findings regarding the policy's ERISA status. It further held that, if the policy was an ERISA plan, the Harpers could potentially sue as ERISA beneficiaries to recover benefits.

## CASE DETAILS

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| COURT | United States Court of Appeals for the Ninth Circuit |
| WRITING FOR THE COURT | Tang, Circuit Judge; Hug, Circuit Judge; Boochever, Circuit Judge |
| JURISDICTION | Federal |
| DECIDED | March 26, 1990 |
| DOCKET | No. 87-15043 |
| DISPOSITION | reversed_and_remanded |
| PROCEDURAL POSTURE | The Harpers appealed from the United States District Court for the District of Arizona's dismissal of their state-law insurance claims on the ground that the partnership's medical insurance policy was an ERISA plan and ERISA preempted the claims. |
| STANDARD OF REVIEW | The court reviewed the district court's legal determination that the policy was an ERISA plan and its resulting dismissal; whether an ERISA plan exists is a question of fact to be determined from all surrounding facts and circumstances. |
| PRECEDENTIAL VALUE | Published Ninth Circuit opinion; precedential unless subsequently limited or overruled. |

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| **PARTIES** | Brad Harper, Mary Deborah Harper v. American Chambers Life Insurance Company, a Group Health Insurer, United Chambers Administrators, Inc., American Employers Association |

## TOPICS

erisa · employee benefits · insurance coverage · statutory interpretation · appellate procedure

## PRACTICE AREAS

employee benefits · health law · insurance · statutory interpretation · appellate procedure

## QUESTIONS PRESENTED

1. Whether the partnership's medical insurance policy was an employee welfare benefit plan governed by ERISA.
2. Whether the Harpers could bring claims under ERISA as beneficiaries if the policy was an ERISA plan.
3. Whether the district court erred by dismissing the Harpers' state-law claims without determining through factual findings whether the policy was an ERISA plan.

## HOLDINGS

1. The existence of an ERISA plan is a question of fact requiring consideration of all surrounding facts and circumstances from the perspective of a reasonable person. The limited record did not establish as a matter of law either that the policy was or was not an ERISA plan, and the district court erred by deciding the issue as a matter of law.
2. If the policy is an ERISA plan, the Harpers are eligible to bring ERISA claims as beneficiaries under ERISA's civil-enforcement provision because they are persons designated by the terms of the plan as persons who are or may become entitled to benefits.
3. Even if the policy is an ERISA plan, dismissal is not necessarily proper because the Harpers may pursue ERISA claims as beneficiaries; if the policy is not an ERISA plan, they may proceed with their state-law claims.

## KEY QUOTATIONS

> *"The existence of an ERISA plan is a question of fact, to be answered in light of all the surrounding facts and circumstances from the point of view of a reasonable person."* (898 F.2d at 1434)

> *"We therefore conclude that ERISA expressly authorizes the Harpers to sue as ERISA beneficiaries in federal court to "recover benefits due" them if the ACLI policy is an ERISA plan."* (898 F.2d at 1436)

## FACTUAL BACKGROUND

Brad Harper and Mark Nelson formed a partnership that purchased health insurance for the partners and their spouses. The insurer's agent represented that the policy would cover pregnancy complications, and the

partnership later added employee Diane Sellers to the policy. After Mary Harper incurred medical expenses for a Cesarean childbirth and related complications, the insurer denied the claims, leading to the Harpers' state-law suit.

### PROCEDURAL HISTORY

The Harpers sued the insurer in Arizona state court for breach of contract, breach of the covenant of good faith and fair dealing, and intentional or reckless infliction of emotional distress after the insurer denied coverage for childbirth-related medical expenses. The insurer removed the action to federal court based on diversity jurisdiction. The district court held that the policy was an ERISA plan, ruled that ERISA preempted the state-law claims, and dismissed the case. The Ninth Circuit reversed and remanded for factual findings concerning whether the policy was an ERISA plan and for further proceedings concerning the Harpers' potential ERISA claims.

### DISPOSITION

reversed_and_remanded

### REMAND INSTRUCTIONS

The district court must review all relevant factors and evidence and make factual findings on whether the partnership's policy was an ERISA plan. If it was not, the Harpers may proceed with their state-law claims; if it was, the Harpers may sue as ERISA beneficiaries. The district court must conduct further proceedings not inconsistent with the opinion.

### CASES CITED

- Pilot Life Insurance Co. v. Dedeaux, 481 U.S. 41, 54-55 (1987)
- Robertson v. Alexander Grant & Co., 798 F.2d 868, 870-71 (5th Cir. 1986), cert. denied, 479 U.S. 1089 (1987)
- Kanne v. Connecticut General Life Insurance Co., 867 F.2d 489, 491-93 (9th Cir. 1988), cert. denied, 493 U.S. 1094 (1990)
- Credit Managers' Ass'n v. Kennesaw Life & Accident Insurance Co., 809 F.2d 617, 625 (9th Cir. 1987)
- Central Montana Electric Power Cooperative v. Administrator of the Bonneville Power Administration, 840 F.2d 1472, 1477 (9th Cir. 1988)
- United States v. Ron Pair Enterprises, Inc., 489 U.S. 235, 241 (1989)
- Fentron Industries v. National Shopmen Pension Fund, 674 F.2d 1300, 1305 (9th Cir. 1982)
- Hermann Hospital v. MEBA Medical & Benefits Plan, 845 F.2d 1286, 1288 n.8 (5th Cir. 1988)
- Franchise Tax Board of California v. Construction Laborers Vacation Trust, 463 U.S. 1, 21 (1983)
- Gulf Life Insurance Co. v. Arnold, 809 F.2d 1520 (11th Cir. 1987)
- Grand Union Co. v. Food Employers Labor Relations Ass'n, 808 F.2d 66 (D.C. Cir. 1987)