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Lawsuit tests federal benefits law
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James LaRue says there is \$150,000 less in his retirement fund than there should be.

And according to a federal lawsuit, he blames administrators at his workplace, DeWolff, Boberg and Associates Inc., for that because they did not, he says, invest the money where he wanted.

But the consulting firm's lawyer and several judges have said that LaRue, a Texas resident, can't sue successfully, based on the wording of a 1974 federal law.

The U.S. Supreme Court could change that when it takes a closer look at the lawsuit, which was filed in U.S. District Court in Charleston. The justices agreed Monday to hear LaRue's case, putting them in a position to change an employee benefits standard that currently protects companies from individual lawsuits.

A ruling in LaRue's favor would boost individual workers' rights, but experts say it could force some companies to scale back the number and size of their retirement plans in an effort to limit financial risk.

"(If LaRue wins), it definitely is going to cause employers to take a look at their 401(k) plans and think about what this means," said **Mark Johnson, president of Erisa Benefits Consulting Inc.**, a Texas-based firm.

Erisa stands for the Employee Retirement Income Security Act, a federal law passed in 1974 that sets standards for employee benefit plans. In the past, judges have interpreted the act as saying individuals can't sue their employers over retirement plan issues.

LaRue challenged that standard in June 2004 when he filed his lawsuit in Charleston's division of U.S. District Court. His employer at the time, DeWolff, Boberg and Associates, was incorporated in the Palmetto State in 1988, according to the S.C. secretary of state's Web site.

The company's "principal place of business" is in Richardson, Texas, according to its Web site and court documents.

Employees who work for the management consulting firm have the ability to direct how their retirement funds are invested, court documents said.

In the company's 2001-02 calendar year, LaRue said he told administrators to invest his money "a certain way," according to the lawsuit.

When the company did not make the changes, he lost \$150,000 in interest over the course of several years, his complaint says.

The damages sought in the civil suit match that amount, court documents say.

In court filings, company officials deny any wrongdoing. They say LaRue requested the change, then later rescinded that request, according to court documents.

But the issue has gone beyond the simple matter of whether LaRue requested the retirement plan change.

The case got to the U.S. Supreme Court on an appeal of a decision from the 4th U.S. Circuit Court of Appeals in Richmond, Va., where a judge ruled that LaRue couldn't win a lawsuit based on grounds that affect only himself.

Judges have interpreted the 1974 act to say that only groups of employees, not individuals, can win damages against a company for the mishandling of retirement funds.

"Individuals can't sue for their own relief but for the general relief of everyone," Johnson said.

The law's wording is meant to protect employers from lawsuits such as LaRue's, he added. Without the risk of individual lawsuits, company officials are more likely to offer employees benefit plans, which is what lawmakers were trying to encourage when they passed the law, he said.

If the Supreme Court rules in favor of LaRue, more employees are likely to sue their employers over benefits issues, Johnson said. Ultimately, the ruling could make companies more hesitant to offer retirement packages.

If the high court rules against LaRue, the previous standard is upheld.

It's unclear whether the Supreme Court accepted the case to create that shift in thought, Johnson said. In fact, the court might have accepted it to rule against LaRue and discourage employees from filing lawsuits in the future, he speculated.

Lawyers could argue the case before the country's top judges as early as this fall.

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