

*Granite Insight*

What a great few months for ERISA litigation attorneys! Employers beware! Principal Insurance won a lawsuit saying that all mutual fund revenue sharing fees were the property of Principal and not the plan! That means that Principal is keeping the fees for themselves! Can you say: conflict of interest!

*Next up is ING. This is a game changer!*

The Issue:

Is ING a fiduciary? The September trial in the great State of Connecticut will decide if ING Life and Annuity (ILIAC) is a fiduciary because of revenue sharing.

The lawsuit, Healthcare Strategies v. ILIAC, was certified as a class action. The plaintiffs allege:

- 1) ILIAC provided certain mutual funds based on the revenue share that were not to the client's best interest.
- 2) ILIAC's receipt of said revenue sharing is a prohibited transaction
- 3) ILIAC fees are excessive compensation
- 4) By making the difference between the guaranteed payment, investment performance and the accumulation is excessive compensation and self-dealing.

This goes directly against other cases about revenue sharing. At issue: Is ILIAC a fiduciary if they replace funds and receive compensation?



Translation:

If revenue sharing fees are received by a bundled provider, then the provider could be ruled a fiduciary. That would mean all providers who receive compensation would have to restructure how they are compensated.

The Solution:

Employers need to reduce their exposure to any provider who receives direct compensation from not only their own proprietary funds, but all funds. Employers are fiduciaries and should seek remedies to avoid possible employee anxiety and litigation.

Additional information: If you would like specific information on operational and investment best practices, please contact Granite Group Advisors. Granite Group provides investment and operational consulting services for Retirement Plans, Pension, Endowments and Private Clients.

Disclaimer: This brochure cannot be construed as tax, legal or investment advice. You should seek a qualified Erisa attorney for specific concerns on your plan.