

September 24, 2010

Public Justice has just filed an *amicus* brief urging the U.S Court of Appeals for the Third Circuit to overturn an overbroad application of the Supreme Court's *Iqbal* decision. The plaintiffs in *Renfro v. Unisys Corp.* alleged that Unisys breached fiduciary duties in managing its employees' 401(k) plan. But the district court threw out the plaintiffs' claims because it found them "implausible" under *Ashcroft v. Iqbal*.



The *Renfro* plaintiffs are rank-and-file Unisys employees who participate in the company's retirement savings plan. Because Unisys administers and manages the 401(k), it owes the plan fiduciary duties under ERISA -- duties that have been called the "highest known to the law." Employees at Unisys (like employees across the country) depend on their 401(k) fiduciaries to manage their retirement plans reasonably and prudently.

The *Renfro* plaintiffs charge that Unisys breached its fiduciary duties in a number of ways. For example, they say that Unisys failed to investigate and understand the market, to compare different investment options, and even to understand how its own plan works -- leading Unisys to choose investment options for the plan that are far more expensive than options available to similarly sized 401(k)s. They say that Unisys's breaches of duty will cost them and other employees millions of dollars in retirement savings.

Although the complaint in *Renfro* contains many detailed factual allegations, the district court dismissed plaintiffs' claims because it found them "implausible under *Iqbal*." As many of you know, the Supreme Court held in *Iqbal* that "[t]o survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." We created our *Iqbal* Project last year to combat overbroad applications "of that holding and to ensure that the courthouse doors remain open to all injured plaintiffs with meritorious claims.

We weighed in in *Renfro* to demonstrate that the district court made a series of significant errors in its *Iqbal* analysis: (1) it disbelieved some of the plaintiffs' factual allegations and ignored others entirely; (2) it made improper and speculative assumptions about the mutual-fund and labor markets that are demonstrably incorrect, as plaintiffs would have shown; and (3) it ignored ERISA's remedial purpose, which is "context" that must be considered under *Iqbal*. We also explained why courts must take care when applying *Iqbal* because overbroad applications of the decision shut the courthouse doors to injured plaintiffs at the earliest stage of a case.

Our brief in *Renfro* is the first filed as part of our *Iqbal* Project, which has been advising and assisting scores of plaintiffs and their attorneys throughout the country since it was launched.

To read our *amicus* brief, [click here](#).

To learn more about our *Iqbal* Project, [click here](#).

Thanks to everyone who worked on this brief -- Public Justice Staff Attorney Claire Prestel, who took the lead, Brayton-Thornton Fellow Melanie Hirsch, Budd-Kazan Fellow Matt Wessler, and Professor Alex Reinert, who heads our *Iqbal* Project. The *Renfro* plaintiffs are represented by Jerome J. Schlichter, Michael A. Wolff, Troy Doles, Heather Lea, and Mary L. Perry of Schlichter Bogard & Denton in St. Louis and by Theodore H. Jobes of Fox Rothschild in Philadelphia.

Thanks to you, too, for making this important brief and our Iqbal Project possible. We can - and must -- preserve access to justice for all!

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