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V. Labor & Employment

Circuit precedent, one cannot recover lost profits for a new business or enterprise in Virginia. Veribanc claimed that Blue Ridge's conversion from a savings and loan to a bank was equivalent to the start of a new business. The Fourth Circuit, however, rejected Veribanc's contention, holding that even if the conversion established a new business, Blue Ridge had operated as a bank for six months prior to the report. Thus, according to the court, Blue Ridge existed as an operating business upon which an expert could testify as to future lost profits. Veribanc also contended that the expert testimony was predicated on unsubstantiated and arbitrary assumptions regarding the actual and continuing effect of the libel on Blue Ridge's account base. Because Veribanc had the opportunity to attack the validity of the testimony at trial, the Fourth Circuit found no basis to conclude that the testimony was too speculative. Finally, the Fourth Circuit rejected Veribanc's argument that the district court judge impermissibly interjected himself into the proceedings.

Labor and Employment

In *Gracey v. International Brotherhood of Electric Workers*, 868 F.2d 671 (4th Cir. 1989), the United States Court of Appeals for the Fourth Circuit considered whether the Service Contract Act, 41 U.S.C. sections 351-358 (1987) (the Act), allows the Secretary of Labor (the Secretary) to set aside the wage and benefit provisions of a collective bargaining agreement if the wages and benefits in the agreement are less than the locally prevailing wages and benefits for similar work. In *Gracey* the court stated that the plaintiff, Holt, and the National Aeronautical and Space Administration (NASA) at the Langley Research Center in Hampton, Virginia, entered into a contract that the Act governed. The court further noted that the International Brotherhood of Electrical Workers, AFL-CIO (IBEW Local) represented all of Holt's employees who worked at NASA under the contract. According to the court, on May 14, 1987, the IBEW Local, pursuant to section 353(c) of the Act, filed a request with the Secretary for a hearing to determine whether the wages provided for in the collective bargaining agreement between Holt and the IBEW Local varied substantially from the prevailing local standards. Claiming that the wages under the collective bargaining agreement were less than the prevailing local wages, the IBEW Local requested that the Secretary force Holt to increase the collective bargaining agreement's wages and benefits. On August 1, 1987, Holt and the IBEW Local entered a successor collective bargaining agreement that provided wages and benefits at a higher level than the original agreement.

On March 11, 1988, Holt filed suit in the United States District Court for the Eastern District of Virginia to enjoin the section 353(c) hearing that the IBEW Local requested. The district court granted Holt summary judgment. The district court held that the Act allows the Secretary to conduct a hearing to set aside wage and benefit agreements contained in a collective bargaining agreement for which the parties bargained at arms length only as section 353(c) provides. The district court found that the plain language of section 353(c) empowers the Secretary to set aside the agreement only if wages and benefits in a successor collective bargaining are below the wages and benefits in the predecessor agreement. Because such a situation was not present, the district court held that the Secretary did not have the power pursuant to section 353(c) to set aside the parties' collective bargaining agreement.

The IBEW Local appealed the district court's ruling to the Fourth Circuit, arguing that the district court incorrectly interpreted section 353(c). Section 353(c) states:

> No contractor or subcontractor under a contract, which succeeds a contract subject to this chapter and under which substantially the same services are furnished, shall pay any service employee under such contract less than the wages and fringe benefits,. . . to which such service employees would have been entitled if they were employed under the predecessor contract: Provided, that in any of the foregoing circumstances such obligation shall not apply if the Secretary finds after a hearing in accordance with regulations adopted by the Secretary that such wages and fringe benefits are substantially at variance with those which prevail for services of a character similar in the locality.

The IBEW Local argued that the proviso of section 353(c) empowers the Secretary to hold a hearing and adjust wages and benefits whenever the wages and benefits for which the parties collectively bargained are below the prevailing local standard for similar work.

To resolve the issue, the Fourth Circuit relied on the plain language of section 353(c). The Fourth Circuit found that the plain language of section 353(c)'s proviso applies only to an employer's basic obligation to provide wages and benefits in a successor contract that are at least equal to those of the predecessor contract. The court interpreted section 353(c) as merely providing workers who are parties to government contracts a wage and benefit floor which guarantees that a successor contract cannot set wages and benefits at a level below that of the predecessor contract. The court reasoned that the proviso provides an exception to the wage and benefit floor only when the terms of the predecessor agreement are substantially higher than the prevailing local wages and benefits. Under such circumstances, the court concluded, an employer is permitted to pay wages lower than those of a predecessor contract. The Fourth Circuit held that Holt clearly fulfilled Holt's obligations under section 353(c) because the successor contract did not provide lower wages and benefits than did the predecessor agreement. Because the terms of the successor contract were not below the terms of the predecessor contract, the Fourth Circuit held that the Act did not grant the Secretary the power to adjust the terms of the collective bargaining agreement.

The Fourth Circuit then relied on the legislative history of section 353(c) to support further the court's interpretation that section 353(c)'s proviso operates only if an employer seeks to enter a successor contract that sets wages below those of the predecessor contract. The court interpreted the Senate Report on the 1972 amendments to the Act to indicate that Congress intended section 353(c) to set a wage and benefit floor level no lower than the wages and benefits of the predecessor contract. Further, the Fourth Circuit interpreted the legislative history to suggest that the Secretary can order a hearing and suspend the obligation of the employer to meet the floor levels for wages and benefits only if the predecessor contract provides wages and benefits substantially above the locally prevailing wages and benefits. The court found no indication in either the legislative history or administrative regulations to suggest that Congress intended the Act to allow the Secretary to force the employer to pay prevailing wages and benefits.

Additionally, the Fourth Circuit, noting that courts must interpret sections of an act in conjunction with the complete statute, bolstered its interpretation of section 353(c) by analyzing section 353(c) in the context of the entire Act. In analyzing section 353(c) in the context of the entire Act, the court found it significant that Congress used the disjunctive in sections 353(a)(1) and 351(a)(2) of the Act. Sections 351(a)(1) and 351(a)(2) provide collective bargaining as an alternative method for establishing wages and benefits in service contracts. The court reasoned that the Act would not provide for collective bargaining only to have the Secretary invalidate the collective bargaining agreement whenever the terms of the collective bargaining agreement varied from the prevailing local wages. The court, thus, held that collective bargaining agreements establish wages and benefits unless the collective bargaining agreements provide wages and benefits lower than the predecessor agreement or conflict with section 353(c) or the minimum wage that the Fair Labor Standards Act established.

Based on the plain language, history, and overall context of the Act, the Fourth Circuit held that the Act requires a successor collective bargaining agreement's wage and benefit provision to meet the wage and benefit provisions of the predecessor agreement unless the wages of the predecessor agreement already exceed prevailing wage rates. If the employer meets the terms of a predecessor contract, the Secretary may not suspend the collective bargaining agreement. Because the employer in *Gracey* met the terms of a predecessor contract, the Secretary had no power to interfere with the collective bargaining agreement. The Fourth Circuit, consequently, affirmed the decision of the district court.

One judge filed a lengthy dissent. Noting that the Department of Labor interpreted section 353(c) the same way the IBEW Local argued that the Fourth Circuit should interpret section 353(c), the dissent concluded that the language of section 353(c) is ambiguous. Further, the dissent criticized the majority's interpretation of the congressional intent, noting that a contrary interpretation is plausible. Because the statute is ambiguous, the dissent reasoned, the courts must defer to any reasonable interpretation by the Department of Labor. The dissent, therefore, argued that the Secretary should hear the IBEW Local's complaint. The court majority, however, concluded that, because Congress expressed its intent unambiguously, the court must protect Congress's intent despite a contrary opinion by the Secretary.

In *Washington v. Union Carbide Corp. and International Association of Machinist and Aerospace Workers, Local Lodge 598*, 870 F.2d 957 (4th Cir. 1989), the Fourth Circuit considered the proper method for resolving a claim that section 301 of the Labor Management Relations Act of 1947, 29 U.S.C. section 185 (1982) (LMRA section 301), preempts a state law cause of action. LMRA section 301 grants jurisdiction of disputes involving the interpretation of a collective bargaining agreement to the federal district court having jurisdiction over the parties. The United States Supreme Court has interpreted LMRA section 301 as authorizing the lower courts to create a body of federal law that would prevail over inconsistent state law in governing the enforcement of collective bargaining agreements.

According to Union Carbide, Union Carbide discharged Thomas E. Washington because of insubordinate behavior, departures from the job site without supervisory approval, and inadequate job performance. Washington, however, alleged that Union Carbide terminated Washington in retaliation for his filing of safety complaints with the company. Washington argued that, as a member of the International Association of Machinist and Aerospace Workers, Local 598, he was subject to a collective bargaining agreement that prohibited termination of employees without just cause and encouraged employees to report safety problems. Alleging that Washington's termination was due to his safety complaints, Washington filed a grievance with Union Carbide pursuant to the collective bargaining agreement's grievance and arbitration procedure. Union Carbide denied Washington's grievance, and the arbitration panel affirmed this determination.

Washington appealed the arbitration panel's decision to the United States District Court for the Southern District of West Virginia. Washington alleged that, as a matter of federal law, Union Carbide breached the collective bargaining agreement not to terminate Washington's employment without just cause, that Washington's termination violated title VII of the Civil Rights Act of 1964, that the arbitration decision was erroneous as a matter of law, and that Union Carbide violated West Virginia public policy in discharging Washington because of his safety complaints. Early in the proceedings, the district court dismissed all of Washington's claims except the state law claim that Union Carbide violated West Virginia public policy in discharging Washington because of his safety complaints. Union Carbide argued that LMRA section 301 preempted Washington's state law claim. On Union Carbide's motion for summary judgment, the district court agreed with Union Carbide that LMRA section 301 preempted Washington's state law claim. In the alternative, the district court found that West-Virginia public policy did not protect Washington from discharge for filing safety complaints. Therefore, the district court granted Union Carbide's motion for summary judgment. Washington appealed the district court's ruling to the United States Court of Appeals for the Fourth Circuit.

To resolve the appeal, the Fourth Circuit first noted that a federal district court has two alternatives when addressing an LMRA section 301 preemption claim in which the state law claim is of doubtful validity. The court explained that one alternative, which the dissent adopted, is to assume the validity of the state law claim and address the preemption claim first. Then, if LMRA section 301 preempts the state law claim, the district court may address the LMRA section 301 preemption claim on its merits. Conversely, the court noted that, if LMRA section 301 does not preempt the state law claim, the district court either may dismiss the state law claim without prejudice or resolve the claim on its merits using the weighing test in *United Mine Workers v. Gibbs*, 383 U.S. 715 (1966). The second alternative is for the district court to address the state law claim first and address the preemption claim only if the state law claim is cognizable. Because a cognizable state law claim is a predicate to an LMRA section 301 preemption claim, the Fourth Circuit found that a district court judge should have the discretion to choose between the two alternatives.

According to the Fourth Circuit, the advantages of the discretionary approach are that the district court can resolve a case promptly if the state law claim is not cognizable; the parties do not have to litigate an LMRA section 301 preemption claim if such litigation is pointless; and the case is litigated in a single forum. To decide which of the two alternatives to use, the Fourth Circuit explained that the district court should consider four factors: first, whether the plaintiff's claim clearly is not cognizable under state law; second, whether the district court can resolve the state law claim with minimal discovery or factual development; third, whether the complexity of the preemption inquiry would leave uncertain on appeal the existence of a federal question; finally, whether the case originated in or was removed to the federal district court and as a result, the extent that resolution of the case will require the parties to shuttle between the federal and the state court.

The Fourth Circuit cautioned that state courts should resolve questions of state law that are genuinely unsettled or that hinge upon disputed facts. Nevertheless, the court emphasized that a federal district court clearly has jurisdiction to decide the state law claim. The district court has pendent jurisdiction if LMRA section 301 does not preempt the state law claim and has federal question jurisdiction if LMRA section 301 does preempt the claim. If the case comes before the court on removal, the district court may address the merits of the state law claim to determine whether the court has jurisdiction.

Applying the above reasoning to the case at bar, the *Washington* court found that Washington's state law claim of retaliatory discharge was not cognizable under West Virginia law. Thus, the court did not reach the LMRA section 301 preemption claim. The Fourth Circuit, therefore, affirmed the district court's grant of summary judgment for Union Carbide.

The dissenting opinion pointed out that the discretionary decision between the two alternatives is not a legal determination. The choice of whether to examine the LMRA section 301 preemption claim first or to examine the merits of the state law claim first is strictly a policy decision. The dissent noted that three circuit courts have examined the issue of how to address an LMRA section 301 preemption claim if the state law claim is of questionable validity, and none chose the approach of the majority. The dissent concluded that the district court should assume the validity of the state law claim and address the LMRA section 301 preemption claim first. If LMRA section 301 does not preempt the state law claim, the district court should use the *Gibbs* criteria to determine whether to rule on the claim or to dismiss the claim without prejudice. On the facts of this case, the dissent explained that LMRA section 301 did not preempt the state law claim and that the court should have dismissed the claim without prejudice.

In *Rayner v. Smirl*, 873 F.2d 60 (4th Cir.), *cert. denied*, 110 S. Ct. 213 (1989), the Fourth Circuit considered whether the Federal Railroad Safety Act of 1970, 45 U.S.C. sections 421-444 (1982) (FRSA), preempts a Maryland tort action for wrongful discharge of a railroad employee who reports alleged railroad safety violations of his employer. The Fourth Circuit's determination hinged upon whether the remedies for "whistleblowers" under the FRSA, specifically section 441 and the incorporated remedial provisions under sections 153 and 441(c), constitute an exclusive remedy for a whistleblowing railroad employee, thereby preempting any state law claims.

James Rayner worked for CSX Corporation as a locomotive fireman and engineer from 1967 to 1979. CSX promoted Rayner to road foreman in 1979 and assigned him to the Baltimore area. In 1987 CSX removed Rayner from his position as road foreman, and Rayner then worked for CSX as a locomotive engineer in Youngstown, Ohio. Rayner alleged that CSX removed and reassigned him in retaliation for several complaints Rayner made to CSX between 1984 and 1987 concerning the safety of railroad operations at CSX.

Asserting a wrongful discharge action under Maryland law, Rayner filed suit in the Circuit Court for Baltimore City against CSX Corporation and Daniel W. Smirl, one of Rayner's supervisors. Claiming that the FRSA preempted Rayner's state action, the defendants removed the action to federal district court. Subsequently, the defendants moved to dismiss Rayner's complaint, claiming that pursuant to the FRSA sections 153 and 442(c) Rayner first must file a complaint with the National Railroad Adjustment Board (NRAB) to obtain any remedy.

The United States District Court for the District of Maryland found that the FRSA preempted Rayner's state claim for wrongful discharge and thus held that the defendants properly removed the claim to federal court. Additionally, because Rayner failed to pursue his available administrative remedies under the FRSA section 441, the district court granted the defendants' motion to dismiss. The district court dismissed the action without prejudice to allow Rayner to pursue the available federal remedies.

Arguing that the FRSA did not provide Rayner a remedy and, therefore, that the FRSA had no preemptive effect on a state law claim for wrongful discharge, Rayner appealed the district court's ruling to the Fourth Circuit. Rayner argued that he did not meet the definition of an employee under the FRSA and that he, therefore, could not qualify for the FRSA's protections. Rayner also contended that he had no remedy under the FRSA because the FRSA did not address intracorporate complaints. The Fourth Circuit thus faced two questions on appeal: first, whether Rayner qualified for a remedy under the FRSA, and if so, whether Congress intended for the federal remedies provided under the FRSA to supersede any state law remedies in cases such as *Rayner*.

To resolve the issues, the Fourth Circuit first reviewed the basic principles of jurisdiction concerning federal preemption of state law. The court stated that, absent diversity of citizenship, the "well-pleaded complaint" rule governs the jurisdiction of federal district courts, meaning that federal jurisdiction exists only when a plaintiff's properly pleaded complaint presents a federal question. The court observed that, while plaintiffs can avoid federal jurisdiction in most instances by relying exclusively on state law, plaintiffs cannot avoid federal jurisdiction if federal legislation completely preempts any area of law. Congressional intent determines whether federal legislation preempts a state cause of action in a particular case.

After reviewing basic principles of jurisdiction, the *Rayner* court examined the legislative history of the FRSA to determine whether Rayner could opt to rely entirely upon state law or if the FRSA provided Rayner an exclusive remedy. Looking at the language of the FRSA after Congress had amended the FRSA in 1980, the court found that the FRSA prohibits a railroad carrier from discharging or discriminating against any employee because the employee has filed any complaint related to the enforcement of federal railroad safety laws. The court, therefore, determined that the FRSA afforded explicit protection to whistleblowers such as Rayner. Because the FRSA was the most comprehensive rail safety legislation Congress ever had enacted, the court rejected Rayner's claim that section 441 does not speak to intracorporate complaints. Finding that Congress intended to protect all employees who report safety violations, the court found no meaningful distinction between intracorporate complaints and complaints that an employee filed with an outside agency. Because both types of complaints serve to promote railroad safety, the Fourth Circuit concluded that intracorporate complaints and complaints filed with an outside agency are within the contemplation of section 441.

Similarly, the court rejected Rayner's claim that Rayner did not have a remedy under the FRSA because he did not qualify as an employee within the meaning of section 441(a). Although the court recognized that Rayner may not meet the definition of an employee under the Railway Labor Act (RLA) because of Rayner's supervisor status, the court reasoned that the FRSA's incorporation of the RLA in section 441 is limited to the RLA's dispute resolution procedures and does not extend to the RLA's definition of employee. The court rejected any narrow construction of the term "employee," finding distinctions between categories of employees irrelevant because any employee could allege the same retaliatory employer action. Consequently, the court concluded that Rayner was an employee under the FRSA.

Finally, the Fourth Circuit considered whether Congress intended the federal remedy in section 441 to supersede state law in cases such as the present one. The court observed that Congress enacted the FRSA to reduce injuries to persons and property that railroad accidents caused. The court also noted that both the statutory language of section 434 and its legislative history emphasize that railroad safety is served best by uniform federal action rather than inconsistent treatment by fifty different judicial and administrative systems.

Looking at the remedy provided to whistleblowers under the FRSA, the court found that Congress provided a very specific remedial scheme under sections 151 and 441. The court explained that the specific remedial scheme under sections 151 and 441 supported the conclusion that Congress intended the federal remedy for railroad whistleblowers to be an exclusive one. Observing that neither the text nor the legislative history of section 441 indicated any desire by Congress to authorize remedies beyond those available under the FRSA, the court concluded that section 441 provided an exclusive remedy for Rayner, thereby preempting his state cause of action for wrongful discharge. Finding that the FRSA provided Rayner with a federal remedy for his employer's alleged incriminatory acts, and finding that section 441 preempted Rayner's state cause of action for wrongful discharge, the Fourth Circuit concluded that the defendants properly removed the action to federal court. The Fourth Circuit dismissed Rayner's claim without prejudice, affirming the judgment of the district court.

In *Rodgers v. Lehman*, 869 F.2d 253 (4th Cir. 1989), the Fourth Circuit consolidated two district court cases on appeal and considered what procedures government agencies must follow for the treatment of an alcoholic employee under the Rehabilitation Act of 1973, 29 U.S.C. sections 701-792 (1985). In one of the district court cases, the Department of the Navy (Navy) dismissed plaintiff Rodgers after a series of unsuccessful attempts at rehabilitating Rodgers's alcohol dependency. Rodgers had joined the Navy as a civilian employee in 1964 after completing service as a naval officer. Although Rodgers never drank on the job or arrived at work drunk, Rodgers repeatedly missed work for a period of days because of "binge" drinking. Beginning in 1979, Rodgers's chronic absenteeism resulted in escalating disciplinary action by the Navy.

The Navy had no notice that Rodgers's problems were alcohol-related until April 1982. Upon discovery of the actual reason for the absenteeism the Navy recommended that Rodgers attend a governmental employees' counseling program, but Rodgers refused. In August 1982, after continued unauthorized absences from work, Rodgers entered a detoxification center for nine days and enrolled in Alcoholics Anonymous. Alcohol-related problems surfaced again in January 1983, but Rodgers refused to accept counseling until the Navy threatened him with a suspension for renewed absenteeism in October 1983. Rodgers's drinking relapse in early 1984 forced the Navy to consider dismissal as a remedy. In June 1984 Rodgers entered a one month inpatient treatment program for alcoholism. Based on the Navy's finding that it had given Rodgers numerous opportunities to obtain treatment, the Navy fired Rodgers in late July 1984 even though Rodgers successfully completed the inpatient treatment program. With one exception as of the time of trial, Rodgers had not suffered any relapses. In spite of Rodgers's apparent recovery, the United States District Court for the Eastern District of Virginia found that the agency's action in dismissing Rodgers was justified.

In the second district court case, the Department of the Army (Army) removed plaintiff Burchell for poor job performance following numerous alcohol-related incidents at the Army base where Burchell worked. Burchell had been a civilian employee at the base since 1972. Burchell's absences for alcohol-related reasons, which began in 1982, led to a formal reprimand by the Army in December 1983. Because of Burchell's continued absences, the Army suspended Burchell for four days in February 1984. In April 1984 the Army mandated that Burchell attend a three month drug abuse program or lose his job, and Burchell complied.

In August 1984 the drug abuse program's supervisors dismissed Burchell as a rehabilitation failure. Burchell had gone to the base drunk several times during this period and had created disturbances with the base's employees. Following the last incident in October 1984, the Army dismissed Burchell. Prior to the dismissal, Burchell had re-enrolled in the drug abuse program and was slated for a one year inpatient program for alcoholism at another Army facility. When Burchell's discharge became effective, the Army required him to leave the program. The United States District Court for the District of South Carolina found that the Army had dismissed Burchell prematurely.

In reviewing the procedures required for a federal government agency's treatment of alcoholics, the Fourth Circuit noted that the Rehabilitation Act of 1973 (the Act) imposes a duty upon all federal agencies to make reasonable accommodations for handicapped employees unless doing so would impose undue hardship on the agency. The *Rodgers* court found that alcoholism qualifies as a valid handicap under the Act. Additionally, the *Rodgers* court concluded that, although the Office of Personnel Management previously had issued its own internal directives on treatment of alcohol-dependent government employees, no clear guidelines existed for such treatment in other federal agencies. As a result, the *Rodgers* court set forth a five-step procedure for agencies to follow in dealing with the treatment of alcoholics.

First, the *Rodgers* court held that once an agency suspects an employee's problems are alcohol-related, the agency should give notice to the employee of available counseling services. Second, if the problems with the employee continue, the agency should provide the employee with a "firm choice" between treatment and discipline, and give notice to the employee that the agency may dismiss the employee if the employee fails to take action. Third, the agency initially must allow the employee to participate in outpatient counseling sufficient to provide a reasonable opportunity for cure. Fourth, if the employee fails to complete the outpatient treatment or continues to have problems at work for alcohol-related reasons, the agency must grant the employee the opportunity for inpatient treatment before dismissing the employee. The *Rodgers* court explained that dismissal of the employee is permissible if inpatient treatment would impose undue hardship on the agency because of the employee's absence from the agency. Finally, the *Rodgers* court noted that if the employee completes the program and then relapses or fails to improve job performance, the court will presume that an agency's decision to dismiss the employee was reasonable. The *Rodgers* court commented that this presumption will be rebuttable only in the rare case in which a single relapse occurs after a long abstinence.

Based on the foregoing policy, the Fourth Circuit reversed the district court's holding involving the Navy and plaintiff Rodgers because the Navy never gave Rodgers the opportunity to complete inpatient treatment prior to dismissal. The *Rodgers* court reinstated Rodgers to his former position. Based on the same rationale, the Fourth Circuit affirmed the district court's holding regarding Burchell and the Army.

In *Rodriguez v. MEBA Pension Trust*, 872 F.2d 69 (4th Cir.), *cert. denied*, 110 S. Ct. 202 (1989), the Fourth Circuit considered whether, under the Employee Retirement Income Security Act, 29 U.S.C. sections 1001-1461 (1982) (ERISA), a pension trustee's improper notice of plan changes precluded the trust from denying a plan participant's pension benefits. The plaintiff Rodriguez, a member of the Maritime Engineer Beneficial Association (MEBA), retired from his job in 1965 and began receiving a pension from MEBA. In 1967 Rodriguez began employment with another employer while continuing to receive pension benefits from MEBA. In 1968 MEBA amended its pension trust regulations to affect employees such as Rodriguez whose employment status had changed since receiving pension benefits. Employees received notice of the option to either suspend their pension checks while accruing further benefits, or continue to receive their pension checks while forgoing further accruals. However, Rodriguez never received the notice and, therefore, did not exercise his option.

The MEBA trust administrator informed Rodriguez in 1973 that Rodriguez had the option in 1968 to suspend his pension payments, but that because Rodriguez had elected to continue to receive pension payments, he could accrue no further benefits. Rodriguez did not contest his right to exercise his option until immediately prior to retirement in 1985. In 1985 Rodriguez wrote the MEBA trust to request information regarding a lump-sum payment of benefits. MEBA informed Rodriguez that because of his failure in 1968 to exercise the option to suspend pension payments he could not receive such a payment.

Rodriguez then filed suit under the ERISA on December 23, 1987, in the United States District Court for the District of Maryland and later moved for summary judgment. Rodriguez alleged that he did not receive notice of the 1968 option and, therefore, that the MEBA trust's subsequent denial of his right to exercise his option was arbitrary and capricious. MEBA maintained that the ERISA jurisdiction over Rodriguez's claim was improper, that the action was barred under various limitation theories, and that MEBA's decision was proper because Rodriguez failed to respond to the 1973 notification of his right to exercise his option to suspend pension payments.

The district court held that the ERISA jurisdiction was improper and that Maryland's statute of limitations barred Rodriguez's suit. The district court further held that even if the suit was timely, MEBA's denial of benefits was proper. Consequently, the district court granted summary judgment in favor of MEBA.

Rodriguez appealed the district court's decision to the United States Court of Appeals for the Fourth Circuit, arguing that because his claim did not fall within the narrow exception to ERISA's preemption of state law, the ERISA jurisdiction was proper. Consequently, Rodriguez argued that, because his claim fell within the scope of the ERISA jurisdiction, state law statutes of limitations would not bar Rodriguez's action. Furthermore, Rodriguez argued that under the ERISA, MEBA's denial of pension payments was arbitrary and capricious.

To resolve the threshold procedural issue of whether ERISA jurisdiction was proper, the Fourth Circuit applied the two-pronged test set forth in section 1144(a) of the ERISA. The Fourth Circuit noted that, under the ERISA's two-pronged test, to determine that a claim falls within the ERISA's preemption of state employee benefit law, a court must determine both that the cause of action arose after January 1, 1975, and that the acts or omissions making up the claim occurred after the same date. If the claim meets both prongs of the test outlined in the ERISA, then the court must find that the ERISA jurisdiction is proper over the claim and, consequently, that the ERISA preempts any relevant state laws that otherwise would govern the employee's claim.

In applying the first prong of the ERISA test the Fourth Circuit reasoned that the cause of action in Rodriguez's claim did not accrue until MEBA formally denied Rodriguez's claim of benefits. Rodriguez first made a formal claim of benefits in 1985; however, MEBA did not formally deny Rodriguez's claim until sometime in 1986. Consequently, the Fourth Circuit concluded that Rodriguez's cause of action did not accrue until 1986, well past the 1975 deadline.

In applying the second prong of the test, the Fourth Circuit sought to determine when the critical acts or omissions making up Rodriguez's claim occurred. The court observed that this was an issue of first impression because the Fourth Circuit previously had not considered whether the ERISA governed controversies such as Rodriguez's, in which an application for pension benefits is made and denied after the effective date of the ERISA jurisdiction, but some of the acts comprising the claim occurred prior to the effective date of the ERISA jurisdiction. The court noted that other circuits which had considered the issue were split on the question of what constituted an act or omission for the purpose of satisfying the second prong of the test. The Fourth Circuit stated that the Third Circuit had ruled that the denial of pension benefits is an act or omission satisfying the second prong. However, the Fourth Circuit also noted that the First and Ninth Circuits have held that, if the denial of pension benefits was the inevitable result of acts occurring prior to the effective date of the ERISA jurisdiction, the denial would not be an act or omission for the purpose of the ERISA's second prong.

In considering which rationale to adopt, the Fourth Circuit reasoned that, although MEBA's denial of benefits may involve a consideration of acts that occurred prior to the date of ERISA jurisdiction, MEBA's decision to deny benefits necessarily requires MEBA to adopt a contemporary construction of the provisions of their pension plan, to which the ERISA's fiduciary standards apply. The court pointed out that, because MEBA did not deny Rodriguez's benefits until 1986, MEBA's decision to deny benefits would require MEBA to consider the provisions of its pension plan in light of the contemporary ERISA fiduciary standards. The Fourth Circuit also pointed out Congress's intention to implement the ERISA's protections as soon as practicable, as well as Congress's intention to construe narrowly the exceptions to the ERISA's preemption provision.

The Fourth Circuit further stated that the Third Circuit's rationale can be applied with more certainty because, to determine whether the ERISA jurisdiction is proper, courts need only look at the date of the formal denial of benefits. Additionally, the court reasoned that equitable considerations supported the Third Circuit's rationale because most claims for pension benefits will not occur until retirement, and thus, the ERISA will cover trustees' interpretations of pension plans. Consequently, the Fourth Circuit adopted the Third Circuit's rationale that a trustee's denial of a pension application is an act or omission for the purpose of satisfying the second prong of the ERISA preemption test. Therefore, the Fourth Circuit concluded that, because MEBA did not deny Rodriguez's application until after the ERISA's effective date, Rodriguez met the second prong of the section 144(a) test. Accordingly, because Rodriguez's cause of action arose, and the acts or omissions making Rodriguez's claim occurred, after the ERISA's effective date of January 1, 1975, the Fourth Circuit held that the ERISA governed the claim and preempted any state law statutes of limitations.

Having determined that state law statutes of limitations did not bar Rodriguez's claim, the Fourth Circuit considered whether MEBA's denial of benefits was justifiable under the ERISA. The court questioned whether MEBA's denial stood up under both the scrutiny of specific disclosure requirements set forth in the ERISA and the broad fiduciary duties the ERISA imposes on trustees. The Fourth Circuit stated that ERISA disclosure requirements, which govern the adequacy of notice to plan participants about substantial changes in the terms of a plan, require the plan trustee to give participants notice of any material changes. The Fourth Circuit further noted that courts have interpreted the ERISA disclosure requirements to require notice sufficient to allow plan participants a chance to take action after such notice. The court concluded that Rodriguez did not receive fair notice under the ERISA's disclosure requirements because he never received the original notice of his option in 1968, and because the notice MEBA gave, when MEBA in 1973 informed Rodriguez that his 1968 option was no longer available, was insufficient to allow Rodriguez to exercise his option.