

**U.S. Supreme Court Subrogation Ruling:**  
*Montanile v. Board of Trustees of Nat. Elevator Industry Health Benefit Plan*<sup>1</sup>

Many ERISA health plans will advance payment of a participant's accident-related medical expenses so long as the participant promises to reimburse the plan out of the participant's third-party settlement or other recovery (for example, a car insurance settlement). However, when the participant spends the settlement without reimbursing the plan, federal courts have disagreed about whether ERISA allows the plan to seek reimbursement from the participant's general assets. In January 2016 the U.S. Supreme Court resolved the conflict, ruling that a plan generally cannot pursue reimbursement from a participant's general assets.<sup>2</sup>

The Supreme Court case, *Montanile*, involved a participant who was injured by a drunk driver. The participant signed a Reimbursement Agreement confirming that his health plan would be reimbursed from any third-party settlement. After the plan paid over \$121,000 in accident-related medical expenses, the participant received a \$500,000 settlement from car insurance. The participant's attorney deposited the money into his attorney trust account. The plan requested reimbursement but the attorney refused. After discussions between the attorney and the plan broke down, the attorney notified the plan that he would disburse the funds to the participant in 14 days unless the plan objected. The plan did not respond and it appears the attorney disbursed the money soon after the 14 days were up. The plan sued the participant 6 months later. By that time, the participant had spent almost all of the settlement proceeds, and so the plan sought a judgment against the participant's general assets.

ERISA § 502(a)(3) allows a plan to sue a participant in order to enforce plan terms and recover "appropriate equitable relief." Relying on historical precedents, the Supreme Court concluded that allowing recovery from the participant's general assets is not "appropriate equitable relief" and therefore is not allowed under ERISA. The Court was unmoved by arguments that its ruling would encourage participants to violate their reimbursement obligations and spend settlements as quickly as possible.

*Not intended as legal advice.*

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<sup>1</sup> A copy of the decision is available at: [http://www.supremecourt.gov/opinions/15pdf/14-723\\_1bn2.pdf](http://www.supremecourt.gov/opinions/15pdf/14-723_1bn2.pdf).

<sup>2</sup> More specifically, the Court ruled that a plan cannot seek reimbursement from the participant's general assets if the participant spent the settlement on non-traceable items, such as food, services or travel. However, if the participant spent the settlement on traceable assets, such as a car, the plan can still pursue a judgment against those assets.