

Kang in Law360 and Financial Planning: DOL Retirement Advice Rule Faces a Bleak Legal Outlook

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PRACTICES ERISA and Other Benefits Litigation, Plan Fiduciaries Counseling, Retirement Plans, Employee Benefits and Executive Compensation

Haynes Boone Partner [Chris Kang](#) was featured in *Law360* and *Financial Planning* articles after two Texas federal judges blocked the U.S. Department of Labor's recently expanded definition of a fiduciary under the Employee Retirement Income Security Act, limiting the agency's authority to oversee certain kinds of retirement investment advice.

"The courts are basically saying, look, we don't have to give deference to the regulatory decision makers, but at the same time, it's not for us to fill in the gaps," Kang told *Law360*.

But Kang was doubtful that Congress would take action to clarify the law where the DOL was attempting to regulate regarding retirement advice.

Labor will probably appeal the decisions to the same Fifth Circuit court, as Kang told *Financial Planning*. However, the "likelihood of success for the DOL seems slim, just based on the judges' opinions" in their orders last week. As the two cases filed by the Federation of Americans for Consumer Choice and the American Council of Life Insurers play out in court, the country will pick between four more years with a Democrat in the White House under Vice President Kamala Harris or to bring back Republican control of the executive branch with the election of former President Donald Trump.

"Certainly a Harris administration is likely to keep folks in place at the department who would keep pushing for this," Kang said. Trump's team "might scale back the regulations" or "introduce something different," he added. "The approach by the administration would likely be different, depending on the outcome of the election."

To read the full article from *Law360*, click [here](#).

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