

Court Penalizes Employer \$41,140 for Failure to Timely Provide Plan Documents

October 3, 2019

In *Kinsinger*, a federal district court in North Carolina significantly penalized a plan administrator that failed to timely respond to employees' request for plan documents related to an employer-sponsored group health plan subject to ERISA. The documents were not provided until 748 days after the ERISA required 30-day period to provide documents had expired, and then only in response to a lawsuit claiming an ERISA fiduciary breach for misappropriating employee contributions. The federal district court assessed a penalty of \$55 per day (half of the statutory maximum of \$110 dollars per day) for the failure to provide the required documents—a penalty determined by the court to reflect both the egregiousness of the [plan administrator's] misconduct as well as the extraordinary length of delay. This opinion serves as a cautionary warning to ERISA plan administrators to not ignore document requests; however, not all documents requested by plaintiff's attorneys are required to be disclosed under ERISA, so contact ERISA counsel if in doubt. *Kinsinger v. Smartcore, LLC*, 2019 BL 320096, (W.D.N.C Aug. 26, 2019).