

## Federal District Court Permits Employer's "Mistake of Fact" Rescission Based on Employer Presumption

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January 12, 2011

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The United States District Court for the Eastern District of California reviewed a 401(k) plan administrator's decision allowing the employer to rescind its employer contributions on behalf of an employee under the "mistake of fact" doctrine. The "mistake of fact" was that the employee committed misconduct on the job which would have resulted in termination (and no contribution) had the employer known about the misconduct sooner. The federal district court allowed the plan administrator's decision to stand because its interpretation was not unreasonable, and therefore not an abuse of discretion. *Anderson v. Strauss Neibauer & Anderson APC Profit Sharing 401(k) Plan*, No. 1:09-cv-01446 OWW JLT, Slip op. (E.D. Cal. Dec. 6, 2010).