Fifth Circuit Adopts the ?Ã‡Â£Narrow View?Ã‡Â¥ of Governing Plan Documents

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Upon request by a participant or beneficiary, a plan administrator must furnish copies of summary plan descriptions, contracts, etc., and ?ÃÂ£other instruments under which the plan is established or operated.?ÃÂ¥ Failure to comply with the request may result in a penalty of up to $110 per day. Before this case, the Fifth Circuit had not addressed the scope of the ?ÃÂ£other instruments?ÃÂ¥ catch-all phrase. Some circuits have interpreted this phrase broadly, although the majority of courts read it narrowly to apply to only ?ÃÂ£formal legal documents?ÃÂ¥ that govern a plan. In an unpublished opinion, the Fifth Circuit applied the ?ÃÂ£narrow view?ÃÂ¥ and found that, because the appellants failed to sufficiently plead that the investment guidelines were binding or mandatory with respect to the plans at issue, the investment guidelines were not required to be disclosed. *Murphy v. Verizon Commc?ÃÃns, Inc*., No. 13-11117 (5th Cir. Oct. 14, 2014) (unpublished).