

Fourth Circuit Warns: Be Careful How You End Things...

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PRACTICES Employee Benefits and Executive Compensation

No one wants to be ghosted or broken up with by a post-it note, and a recent decision from the United States Court of Appeals for the Fourth Circuit signals that, just as in life, in the world of employee benefit plans, there is a right and a wrong way to end things.

In *Messer v. Bristol Compressors Int'l, LLC*, the Fourth Circuit found that a unanimous written consent adopted by a plan sponsor's board of directors was insufficient to terminate the company's severance plan, because the plan's governing document required that plan amendments be "in writing by the Human Resources department." The Fourth Circuit found that because the consent terminating the plan was adopted by the plan sponsor's board, rather than the human resources department, the plan's prescribed amendment procedures were not followed, and therefore, the severance plan had not been effectively terminated.

This case highlights the importance of both understanding a benefit plan's amendment and termination provisions as well as following them. Although it would not be unreasonable to assume that an action of a plan sponsor's board of directors would supersede the actions of the plan sponsor's human resources department, this case demonstrates the adverse consequences that can occur when the plan sponsor fails to strictly follow a plan's amendment and termination provisions.

The Fourth Circuit's opinion is available [here](#).