
Cigna, Prudential settle ERISA lawsuit for \$35 million

By Editor Test *Mon, Jun 24, 2013*

"As part of the settlement... Cigna has agreed to continue not to include in the plan's investment lineup any investment options managed by it or its affiliates and has agreed to continue to exclude retail class mutual funds from the plan's lineup—as it has since the 1990s," said a press release from the plaintiff's attorneys.

Cigna Corp. and Prudential Retirement Insurance and Annuity Co., have agreed to pay \$35 million to settle a six-year-old fee-related federal class action lawsuit, *Nolte et al. v. Cigna Corp., et al.*, according to a release by Schlichter, Bogard & Denton, the St. Louis law firm that represented the plaintiffs.

The initial complaint was filed in 2007 in the U.S. District Court for the Central District of Illinois. Cigna sold its retirement plan business to Prudential Financial for \$2.1 billion in 2004, and the lawsuit claimed that Cigna improperly used plan assets to enhance its revenue from the sale.

According to a 2011 amended [complaint](#), Cigna "invested more than \$1 billion of Plan assets directly into [its] General Account, even though that investment imposed excessive and undiversified risk upon the Plan; and (5) used Plan assets in [its] business by placing more than \$2.4 billion with Defendants as assets under management so as to increase the ongoing revenues and profits, including the eventual sale price, of CIGNA's retirement business to Prudential while not accounting to the Plan for such use."

A spokesperson at Prudential Retirement declined to comment.

Part of the settlement, which remains to be approved by Judge Harold A. Baker, will go to plan participants' accounts and part will compensate the plaintiffs' law firm, which has made a specialty over the past several years of suing plan sponsors and providers for alleged breach of their fiduciary duty to protect plan participants against excessive fees. In 2012, the same law firm won a \$36.9 million judgment in a fee-related class action lawsuit, *Tussey vs. ABB*. The plan provider in that case was Fidelity.

According to the release:

"The case involves disputes over the handling of the Cigna 401(k) plan, the prudence and level of fees of certain plan investment options, and the sale of Cigna's retirement business to PRIAC... The Nolte plaintiffs allege, among other things, that the fiduciaries responsible for overseeing the plan breached their legal duties by allowing the plans to pay excessive investment management and other fees while allegedly benefiting Cigna and that Cigna improperly benefited from the sale of Cigna's retirement business.

"The defendants dispute these allegations and assert that the plan has always been appropriately managed to offer a menu of sound options for participants' retirement savings. Cigna and PRIAC maintain that they have fully complied with the Employee Retirement Income Security Act of 1974, which covers such plans...

"As part of the settlement... Cigna has agreed to continue not to include in the plan's investment lineup any investment options managed by it or its affiliates and has agreed to continue to exclude retail class mutual

funds from the plan's lineup—as it has since the 1990s.”

© 2013 RIJ Publishing LLC. All rights reserved.