
Schlichter sues a hospital chain for “excessive” plan fees

By Kerry Pechter Thu, Mar 13, 2014

The latest ERISA suit from St. Louis plaintiffs attorney Jerry Schlichter (pictured) claims that Novant Health Inc. violated its fiduciary duty by paying excessive fees to Great-West Life & Annuity and to a Winston-Salem, NC, brokerage firm.

Another federal class action suit over alleged excessive retirement plan fees has been filed by St. Louis attorney Jerry Schlichter this week. This time the defendant is Novant Health Inc., sponsor of a 25,000-member, \$1.2 billion retirement plan in Winston-Salem, North Carolina.

Novant Health is a non-profit health care services firm that operates 13 hospitals and 350 physicians' practices in Georgia, North Carolina, South Carolina and Virginia. (For expert analysis and a link to the complaint, click [here](#).)

The suit, *Karolyn Kruger, M.D. et al., v. Novant Health Inc., et al.*, was filed in the U.S. District Court, Middle District of North Carolina. It claims that Novant violated its fiduciary duty under ERISA by paying \$8.6 million to Great-West Life & Annuity for recordkeeping and investment services, including revenue-sharing, and \$9.6 million in commissions to a Winston-Salem brokerage firm, D.L. Davis & Co., between 2009 and 2012. D.L. Davis is a registered rep of MML Investors Services, a unit of MassMutual.

The complaint also tied D.L. Davis' relationship with Novant's retirement plan to real estate and other transactions between the two companies. According to the complaint, the brokerage firm's CEO and president, Derrick Davis:

“has entered into a variety of land development projects and office building leasing arrangements in the greater-Winston-Salem area with Novant” and that “early in Mr. Davis' business relationship with Novant he made a charitable gift to Novant in excess of \$5 million.”

“At nearly the same time as Mr. Davis gave Novant that \$5 million, a Davis-owned development company in which he is an officer, manager and/or owner, East Coast Capital, announced plans to develop the Southeast Gateway project. The project included Novant Health as occupying 40,000 square feet of this office development for a call center.”

Novant offers its employees and retirees an ERISA-ruled retirement program known as the Retirement Plus Plan. The program includes two Plans, the Tax Deferred Savings Plan of Novant Health Inc., and the Savings Supplement Retirement Plan of Novant Health Inc.

Since 2006, the firm of Schlichter, Bogard & Denton has filed twelve similar excessive fee complaints and secured six settlements worth over \$125 million. It has pending cases against Ameriprise, Lockheed Martin, Northrup Grumman and Mass Mutual. In 2009, the firm won the only 401(k) excessive fee litigation matter to be taken to trial. The defendants in that case were ABB and Fidelity.