

## INSURANCE LAW BULLETIN

### **Re: Negligence Claims Arising From Terminated Pension Plan Are Preempted By ERISA And Subject To Removal**

The United States District Court for the District of Maryland recently ruled negligence claims filed against a broker-dealer by the administrator and sponsor of a terminated defined benefit pension plan are completely preempted by ERISA and removable to federal court.

The administrator of a terminated defined benefit pension plan filed a state court action alleging imprudent investment decisions by a putative agent of a broker-dealer resulted in a “shortfall” in the pension plan’s accounts. This alleged “shortfall” significantly diminished the termination account values of several key employees. The broker-dealer removed the action to federal court and moved for a stay pending arbitration. The plan administrator moved to remand arguing ERISA was inapplicable to the professional negligence claims.

Denying the motion to remand, the court held the administrator’s claim that an alleged fiduciary made imprudent plan investments falls within the scope of ERISA’s civil enforcement provisions. The court further found the arbitration agreement enforceable and stayed the action pending arbitration.

For further information or a copy of the decision, please contact **Bryan D. Bolton** or **Michael P. Cunningham**, who represented the broker-dealer in this matter. You can reach Bryan at 410.659.7754 or [bbolton@fblaw.com](mailto:bbolton@fblaw.com) and Michael at 410.659.4979 or [mcunningham@fblaw.com](mailto:mcunningham@fblaw.com). To learn more about our firm, or review past law bulletins, please visit [www.fblaw.com](http://www.fblaw.com).

April 9, 2013  
No. 2013-1