



HOME

In This Issue

- This Week's Feature
- DRI News
- And The Defense Wins!**
- New Member Spotlight
- Legislative Tracking
- Quote of the Week
- DRI Cares
- DRI CLE Calendar

And The Defense Wins!

Gordon & Rees partner **Ronald K. Alberts**, residing in the firm's Los Angeles office, obtained a judgment in favor of defendants Aetna Life Insurance Company and The American National Red Cross Long Term Disability Plan, in an ERISA disability benefits case that clarified the application of heightened scrutiny where a claim decision is reviewed under an abuse of discretion standard. *Winkler v. Aetna*, CV 08-08269.



Ronald K. Alberts

The plaintiff, a registered nurse, was employed by the American National Red Cross. After suffering from a cardiac arrest, the plaintiff filed a claim for long term disability benefits under the employer's self-funded long term disability plan (the Plan). Aetna was the named fiduciary with discretionary authority to review claims and interpret claim provisions. The parties agreed the applicable standard of review was abuse of discretion. Aetna initially approved the plaintiff's long term disability benefits but thereafter terminated benefits. The plaintiff appealed.

On September 10, 2009, the court denied the plaintiff's request to consider evidence outside of the administrative record. That court agreed with the defense that the plaintiff had failed to identify a predicate conflict of interest where different entities administer and fund the Plan. The court further agreed that the plaintiff failed to identify any conflict of interest that warranted a different application of the abuse of discretion standard.

On May 4, 2010, the court issued a trial verdict in favor of the defendants. The court found that the defendants did not abuse their discretion in denying plaintiff's claim for benefits. The court reiterated that no structural conflict of interest existed to temper the court's skepticism of the plan administrator's decision under an abuse of discretion standard of review. The court further agreed with the defense position that no procedural irregularity was identified that would lead the court to weigh a conflict of interest more heavily when reviewing for abuse of discretion. Reviewing the decision under a strict abuse of discretion standard, the court found no abuse in denying plaintiff's claim for long term disability benefits, where Aetna reviewed the medical records from plaintiff's treating physicians and came to a decision contrary to the assessments made by those doctors based on (1) the fact that their records lacked specific notes or follow-up and (2) other medical evidence in the plaintiff's file that contradicted the opinion of these doctors.

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- Annual Meeting
- Membership
- Membership Directory
- News and Events
- CLE Seminars and Events
- Publications
- The Alliance
- DRI Europe
- Archive

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