



STATE OF MINNESOTA  
IN COURT OF APPEALS

Thomas V. Engfer,

Relator,

vs.

1) General Dynamics Advanced  
Information Systems, Inc.,

2) Department of Employment &  
Economic Development,

Respondent.

**RELATOR'S INFORMAL BRIEF**

COURT OF APPEALS #: A13-872

DEPARTMENT OF  
EMPLOYMENT & ECONOMIC  
DEVELOPMENT #: 30629993-4

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**INTRODUCTION**

The questions before the Court of Appeals appear to be ones of first impression in this State. In particular, whether ERISA preempts the application of certain aspects of Minnesota unemployment compensation statutes when supplemental unemployment benefits plans are in use. ERISA preemption should apply to preclude application of Minnesota definitions of wages to frustrate the purposes of legitimately created and administered ERISA employee benefit plans. Thus, this Court should reverse the Unemployment Law Judge's (ULJ) decision.

**STATEMENT OF FACTS**

Relator Thomas Engfer (Engfer) worked for Respondent General Dynamics Advanced Information Systems, Inc. (GD) from August 30, 1979 to December 16, 2011 as a software developer. Transcript of Testimony (T) 12-13, Itemized List: Findings of Fact and Decision of the Unemployment law Judge and Request for Reconsideration (Findings) p. 2 of 5. Engfer's final rate of pay was approximately \$92,000 per year. T13.

When Engfer's employment ended he was offered the opportunity to participate in an Employee Transition Benefit Plan (Plan). T14. The Plan provided a supplement to Engfer's weekly state unemployment compensation benefits that, when combined, would equal 100% of his last normal weekly gross pay. Department Exhibit (Exh) 6, p. 3. The Plan provided that Engfer not declare the Plan amounts as severance benefits when applying for unemployment benefits. *Id.* The Plan provided that Engfer must be eligible to receive state unemployment compensation benefits in order to receive the Plan benefits. *Id.* at p. 4.

Accordingly, on or about December 18, 2011, Engfer applied for unemployment compensation benefits and immediately began to receive Plan benefits, as well. T14; Findings p.3 of 5. Because of Engfer's tenure with GD, he was entitled to receive 26 weeks of Plan benefits to supplement his unemployment compensation benefits. T14.

Engfer was only entitled to receive the Plan benefits if he signed, executed, and did not revoke GD's Confidential Separation Agreement and General Release (Agreement). T16, Exh 6 at p. 6. The Plan provided 26 weeks of benefits which, if exhausted, meant that Engfer would continue to receive only his unemployment benefits. T19, Exh 6. According to the Plan, there were three exceptions under which Engfer could receive Plan benefits but not be eligible to receive unemployment compensation benefits: first, if there was a state waiting period with respect to receipt of unemployment compensation benefits; second, there were insufficient earnings to qualify for unemployment; and third, unemployment benefits were exhausted before the Plan benefit expired. Exh. 6 at p. 4.

Engfer's state unemployment compensation benefits began on or about December 18, 2011 and he continued to request state unemployment benefits and federal extension through the

his Determination of Ineligibility on January 28, 2013 . Findings, p.3 of 5. Engfer's Plan supplemental benefits ended on July 5, 2012. *Id.* The Plan paid him a total of \$31,397.50. *Id.*

### **PROCEDURAL POSTURE**

Engfer has appealed the ULJ's decision that he was overpaid \$10,746.00 during the period of December 18, 2011 to April 21, 2012 based upon receipt of supplemental unemployment benefits in the amount of \$31,397.50 during that same time frame.

### **ISSUES**

**A. Whether ERISA Preempts Minn.Stat. §268.035, Subd. 29(a)(12).**

**B. Whether The Unemployment Compensation Insurance Judge Erroneously Applied The Law In This Case.**

### **STANDARD OF REVIEW**

The Court of Appeals may affirm the decision of the Unemployment Law Judge (ULJ), remand the case for further proceedings, or reverse or modify the decision if the substantial rights of the relator have been prejudiced because the findings, inferences, conclusion, or decision was in excess of the statutory authority or jurisdiction of the department, affected by other area of law, or unsupported by substantial evidence in view of the entire record as submitted. Minn.Stat. §268.105, subd. 7(d)(2) and (4)-(5)(2010). "On undisputed facts, whether an employee is ineligible to receive unemployment benefits is a question of law, which [the Minnesota Court of Appeals] reviews de novo." *Bergen v. Sonnie of St. Paul, Inc.*, 799 N.W.2d 234, 236 (Minn.Ct.App. 2011)(citing *Ress v. Abbott Northwestern Hospital, Inc.*, 448 N.W.2d 519, 523 (Minn. 1989)).

## ARGUMENT

### **A. The Supplemental Unemployment Benefits Plan Was Governed By ERISA And Therefore Preempted Minn.Stat. §268.035, Subd. 29(a)(12).**

Minnesota unemployment compensation laws exclude from wages the following:

...Payments made to supplement unemployment benefits under a plan established by an employer, that makes provisions for employees generally or for a class or classes of employees under the written terms of an agreement, contract, trust arrangement, or other instrument. The plan must provide supplemental payments solely for the supplementing of weekly state or federal unemployment benefits. The plan must provide supplemental payments only for those weeks the applicant has been paid regular, extended, or additional unemployment benefits. The supplemental payments, when combined with the applicant's weekly unemployment benefits paid, may not exceed the applicant's regular weekly pay. The plan must not allow the assignment of supplemental payments or provide for any type of additional payment. The plan must not require any consideration from the applicant and must not be designed for the purpose of avoiding the payment of Social Security obligations, or unemployment taxes on money disbursed from the plan...

Minn.Stat. §268.035, subd. 29(a)(12)(2012)(hereinafter referred to as Wage Definition).

ERISA preempts any and all state laws to the extent that they "relate to any employee benefit plan" covered by ERISA. 29 U.S.C. §1144(a)(2006); *Eide v. Grey Fox Technical Services Corporation*, 329 F.3d 600, 604 (8<sup>th</sup> Cir. 2003)(citing *Shea v. Esensten*, 107 F.3d 625, 627 (8<sup>th</sup> Cir. 1997)(further citations omitted)). ERISA's preemption clause must be broadly read to reach any state law having a connection with or reference to covered employee benefit plans. *New York State Conference of Blue Cross & Blue Shield Plans v. Travelers Insurance Co.*, 514 U.S. 645, 655-656, 115 S.Ct. 1671. A state law may relate to a benefit plan, and thus be preempted, even if the law was not specifically designed to effect such plans or the effect was only indirect. *Mitchell Energy & Development Corp. v. Fain*, 172 F.Supp.2d 880, 888 (S.D.Tex.

2001)(citing *New York State Conference of Blue Cross & Blue Shield Plans*, 514 U.S. 645, 655, 115 S.Ct. 1671). In passing ERISA, the U.S. Congress intended:

To insure that plans and plan sponsors would be subject to a uniform body of benefits law; the goal was to minimize the administrative and financial burden of complying with conflicting directives among States or between States and the Federal Government..., [and to prevent] the potential for conflict and substantive law...requiring the tailoring of plans and employer conduct to the peculiarities of the law of each jurisdiction.

*New York State Conference of Blue Cross & Blue Shield Plans*, 514 U.S. at 657, 115 S.Ct. 1671 (citing *Ingersoll-Rand v. McClendon*, 498 U.S. 133, 142, 111 S.Ct. 478, 484 (1990)). ERISA's preemption clause was designed to insure uniformity in the design and administration of covered plans. See *Fort Halifax Packing Company, Inc. v. Coyne*, 482 U.S. 1, 9-10, 107 S.Ct. 2211 (1987). However, a uniform plan is difficult to achieve if it is subject to differing regulatory requirements in differing states. *Id.* at 9 (107 S.Ct. 2211). If that were the case, an ERISA plan would be required to keep certain records in some states but not in others and make certain benefits available in some states but not in others, necessitating processing claims in certain ways in some states but not in others.

It is thus clear that ERISA's pre-emption provision was prompted by recognition that employers establishing and maintaining employee benefit plans are faced with the task of coordinating complex administrative activities. A patchwork scheme of regulation would introduce considerable inefficiencies in benefit program operation, which might lead those employers with existing plans to reduce benefits, and those without such plans to refrain from adopting them. Pre-emption ensures that the administrative practices of a benefit plan will be governed by only a single set of regulations.

*Fort Halifax*, 42 U.S. at 11, 107 S.Ct. 2211 (citations omitted). In determining whether an ERISA plan exists or if benefits are premised on an ERISA plan can be determined by whether an employer requires "an ongoing administrative program to meet [its] obligation." *Eide*, 329 F.3d at 605, (citing *Fort Halifax*, 482 U.S. at 12, 107 S.Ct. 2211).

In Engfer's case, the application of the Wage Definition to the Plan paying Engfer's supplemental employment benefits was erroneous and should have been preempted by ERISA. The Plan at issue was clearly an employee benefit plan governed by ERISA. The Plan required that Engfer apply for unemployment compensation benefits in his particular state in order to receive the supplemental benefits provided by the Plan. The Plan required an ongoing administrative scheme to determine Engfer's continued eligibility for benefits and analyzed Engfer's particular circumstances. Particularly, the Plan had to determine how many weeks of benefits to which Engfer was entitled based upon his years of work; determine the dollar amount of benefits to which Engfer would be entitled after his particular state unemployment compensation benefits were established; and then pay Engfer the difference between his last weekly salary and his state provided unemployment benefit. Obviously, each employee would be subject to different calculations given their different salaries, different state calculations for unemployment benefits and differing years of service. Thus it is clear that the Plan was an ERISA plan and should have been afforded the preemption rights over the Minnesota Wage Definition application.

Without preemption of Minnesota's Wage Definition, the Plan would be frustrated. For instance, Minnesota unemployment compensation laws may differ from other state laws in how they treat supplemental benefit plans. ERISA's preemption clause was designed to prevent an employer providing benefits, such as the present Plan, to implement state specific plans to comply with all different state laws regarding unemployment compensation benefits. "[I]f state laws could be applied in invalidate selected or objectionable plan provisions or benefits, employers would be subject to conflicting requirements in the administration of their ERISA plans. *Mitchell Energy*, 172 F.Sup.2d at 889 (citations omitted). "Indeed, the validity, and

therefore, the design, content, and administration of such plans would vary from state to state.” *Id.* (citations omitted). Courts should not hesitate to enforce ERISA’s preemption provision where state law created the prospect that an employer’s administrative scheme would be subject to conflicting requirements. *Fort Halifax*, 42 U.S. at 10, 107 S.Ct. 2211.

It is clear that Minnesota’s Wage Definition related directly to Engfer’s ERISA governed Plan. See Exh 6, p.8 (“These payments are supplemental unemployment compensation benefits awarded through the General Dynamics Corporation Employment Transition Benefit Plan qualified under the provisions of the Employee Retirement Income Security Act of 1974 as amended.”). The Wage Definition statute refers directly to supplemental unemployment compensation benefits plans established by an employer and attempt to restrict such plans by limiting their payments only to weeks the applicant has been paid regular, extended, or additional unemployment benefits. That particular reference in the Wage Definition directly impacts the ERISA plan in the present case. The Minnesota wage definition is directly contrary to the Plan benefits provided in that the Plan pays Engfer during his waiting week for state unemployment compensation benefits which the Wage Definition statute addresses as a violation of the statute. In addition, the Plan pays Engfer after he has exhausted any state unemployment compensation benefits. That Plan provision would also be a violation of the Wage Definition, but should be pre-empted, as well.

ERISA’s preemption provision is in place to protect from precisely the outcome of Engfer’s case. Specifically, Minnesota’s Wage Definition application negatively impacts the administration of the legitimate ERISA Plan in that it forces the Plan to tailor its provisions for specific states which frustrates the purpose of providing employee benefits to a class of employees such as Engfer.

**B. Because The ULJ Failed To Apply ERISA Preemption Principals To Engfer's Receipt Of Supplemental Unemployment Compensation Benefits Pursuant To The ERISA Based Plan, The ULJ Erroneously Applied The Law In The Present Case.**

In ruling that the Plan did not comply with Minnesota requirements that supplemental benefits be payable only for those weeks where an applicant has been paid regular, extended or additional unemployment benefits, the ULJ effectively failed to apply ERISA preemption principals to Engfer's case. The ULJ found the plan violated Minnesota law by paying a participant's full weekly wage during a state imposed non-payable week, continued to pay benefits in the full amount of a participant's weekly wage if the participant exhausted his unemployment benefits, and also paid benefits to a participant if he did not have sufficient earnings to qualify for unemployment.<sup>1</sup> The ULJ knew about, but refused to analyze, the ERISA component of the Plan. See Itemized List: Notice of Filing Order of the Unemployment Law Judge and Order, p.3 of 4. ("Whether a supplemental benefits plan is valid under ERISA is not relevant to this analysis.").

The ULJ's application of the Minnesota Wage Definition frustrated the purpose of a legal Plan created under, and controlled by, ERISA. Because ERISA laws should have preempted the Wage Definition application, the ULJ lacked jurisdiction to apply such Minnesota law to the Plan. The Minnesota Wage Definition was clearly related to the ERISA Plan and thus preempted.

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<sup>1</sup> Engfer did not exhaust his unemployment compensation eligibility prior to his plan benefits ending and he did not have insufficient earnings to qualify him for unemployment. Nevertheless, the ULJ applied these elements of the Minnesota wage definition despite their inapplicability to Engfer's situation. The ULJ cited only one element of the Minnesota wage definition which applied to Engfer—that he received plan benefits during a state imposed non payable week.

CONCLUSION

Based upon the foregoing, the Minnesota Court of Appeals should reverse the ULJ's decision and find that Relator Engfer was not overpaid for the period beginning December 18, 2011 through April 21, 2012. The ULJ erroneously applied the law to the present case by failing to honor the preemptive control of ERISA created supplemental unemployment compensation plans.

Respectfully submitted,

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