

EASCOLAW PLLC

TED SCALLET

REPRESENTATIVE CASES

Many cases do not generate a published opinion, but this list of reported cases (with a few that are unreported but have WL cites) is quite representative of Ted Scallet's litigation practice.

Cases marked with an (*) involved a trial or other significant evidentiary proceeding.

Fiduciary/Corporate

From his days at the Department of Labor to the present, most of Ted Scallet's work has involved ERISA breach of fiduciary duty claims. But he also had his share of corporate benefit cases.

***Bigger v. American Commercial Lines, 862 F.2d 1341 (8th Cir. 1988)**

Bigger v. American Commercial Lines, Inc., 677 F.Supp. 626 (WD Mo 1988)

Union Pacific R. Co. v. Beckham, 138 F.3d 325 (8th Cir. 1998)

Donovan v. Shaw, 668 F.2d 985 (8th Cir. 1982)

Mahoney v. Union Leader Retirement Profit Sharing Plan, 635 F.2d 27 (1st Cir. 1980)

Montoya v. New York State United Teachers, 754 F.Supp.2d 466 (EDNY 2010)

***Schierholz v. Goldman Financial Group, Inc., Retirement Plan, 875 F.Supp. 595 (ED Mo 1995)**

***Victor v. Home Sav. of America, 645 F.Supp. 1486 (ED Mo 1986)**

***Barry v. West, 503 F.Supp.2d 313 2007 (DDc 2007)**

***Alder v. B.C. Ziegler and Co., 2006 WL 2380631 (WD Wi 2006)**

In re CIGNA Corp. ERISA Litigation, 2004 WL 1859786 (ED Pa 2004)

***Chao v. Trust Fund Advisors, 2004 WL 444029 (DDC 2004)**

Marshall v. Davis, 517 F.Supp. 551 (WD Wi 1981)

Trombly v. Marshall, 502 F.Supp. 29 (DDc 1980)

Feinstein v. Lewis, 477 F.Supp. 1256 (SDNY 1979)

ESOPs

***Donovan v. Cunningham, 716 F.2d 1455 (5th Cir. 1983)**

The first major ESOP fiduciary opinion. Cited a lot.

***Henry v. Champlain Enterprises, Inc.**

Ted Scallet's personal record for reported decisions in one case. Lost, won, lost and finally won.

Henry v. Champlain Enterprises, Inc., 288 F.Supp.2d 202 (NDNY 2003)

Henry v. Champlain Enterprises, Inc., 334 F.Supp.2d 252 (NDNY 2004)

Henry v. Champlain Enterprises, Inc., 342 F.Supp.2d 122 (NDNY 2004)

Henry v. Champlain Enterprises, Inc., 445 F.3d 610 (2d Cir 2006)

Henry v. Champlain Enterprises, Inc., 468 F.Supp.2d 368 (NDNY 2007)

Henry v. U.S. Trust Co. of California, N.A., 569 F.3d 96 (2d Cir. 2009)

***Chao v. Hall Holding Co., Inc.**

Reich v. Hall Holding Co., 990 F.Supp. 955 (ND Oh 1998)

Reich v. Hall Holding Co., Inc., 60 F.Supp.2d 755 (ND Oh 1999)

Chao v. Hall Holding Co., Inc., 285 F.3d 415 (6th Cir. 2002)

Preemption

Ted Scallet used to be a top ERISA preemption lawyer and it has always been a part of his practice. He never would have thought that there would be hundreds, if not thousands, of cases about ERISA's preemption of state law. There have probably been more Supreme Court opinions about that one statutory provision than any other section of a regulatory law. It's still a mess.

Metropolitan Life Ins. Co. v. Massachusetts, 471 U.S. 724 (US 1985)

Ted Scallet's first amicus curiae brief as a private lawyer.

Donovan v. Dillingham, 688 F.2d 1367 (11th Cir 1982)(en banc)

Ted Scallet's only *en banc* argument and one of the most-cited case in ERISA jurisprudence.

American Council of Life Insurers v. Ross, 558 F.3d 600 (6th Cir. 2009)

Levine v. United Healthcare Corp., 402 F.3d 156 (3d Cir. 2005)

Carducci v. Aetna U.S. Healthcare, 247 F.Supp.2d 596 (DNJ 2003)

Levine v. United Healthcare Corp., 285 F.Supp.2d 552 (DNJ 2003)

Insurance Bd. Under Social Ins. Plan of Bethlehem Steel Corp. v. Muir, 819 F.2d 408 (3d Cir. 1987)

Stone v. Stone, 632 F.2d 740 (9th Cir. 1980)

Hawaii Management Alliance Ass'n v. Schmidt, 2008 WL4107988 (D Hw 2008)

Benefit Claims

ERISA benefit claims have always presented interesting issues.

National Football League

Ted Scallet's former firm represented the NFL Plans that paid disability claims, so he has an even more difficult time with the serious health issues in football than many fans.

Washington v. Bert Bell/Pete Rozelle NFL Retirement Plan, 504 F.3d 818 (9th Cir. 2007)

Johnson v. Bert Bell/Pete Rozelle NFL Player Retirement Plan, 468 F.3d 1082 (8th Cir, 2006)

Jani v. Bell, 209 Fed.Appx. 305 2006 (4th Cir. 2006)

Morris v. Bell, 208 Fed.Appx. 742 (11th Cir. 2006)

Stewart v. Bert Bell/Pete Rozelle NFL Player Retirement Plan, 2012 WL 2374661 (D. Md. 2012)

Schwager v. Bert Bell/Pete Rozelle NFL Player Retirement Plan, 2010 WL 481232 (D. Md. 2010)

Subrogation

Zurich American Ins. Co. v. O'Hara, 604 F.3d 1232 (11th Cir. 2010)

Yerby v. United Healthcare Ins. Co., 846 So.2d 179 (Sup. Ct. Miss. 2002)

Reynolds Metals Co. v. Ellis, 202 F.3d 1246 (9th Cir. 2000)

Ted Scallet was for a time the go-to guy for the subrogation providers. He liked his clients a lot, though he wasn't crazy about their business. The representation included some interesting appellate experiences. Arguing in the old courthouse in Jackson, Mississippi, was surprisingly moving. *Reynolds Metals* was his one and only opportunity to argue before the Supreme Court, and the Court actually granted *certiorari*. Then George W. Bush became President.

Bankruptcy

***In re CF&I Fabricators of Utah, Inc., 179 B.R. 704 (D. Utah 1994)**

One of the first decisions about the status of pension plan liabilities in bankruptcy.

In re AMR Corp., 523 B.R. 415 (SDNY 2014)

A large army of lawyers, but the most vivid memory that Ted Scallet has is losing his glasses as he got out of the taxi just before arguing the principal motion. He could barely see the Judge.

***In re Millennium Multiple Employer Welfare Ben. Plan, 470 B.R. 203 (WD Ok 2012)**

Arbitration

Shy v. Navistar Intern. Corp, 781 F.3d 820 (6th Cir. 2015)

***Watson Wyatt & Co. v. SBC Holdings, Inc., 513 F.3d 646 (6th Cir. 2008)**

Won one/lost one. Presumptions matter in the law.

Non-ERISA Cases

Daniel v. International Brotherhood of Teamsters, 558 F.2d 1083 (2d Cir. 1977)

A securities law case that was responsible for Ted Scallet becoming an ERISA lawyer

Securities and Exchange Commission v. Parklane Hosiery Co., Inc., 558 F.2d 1083 (2d Cir. 1977)

Tannenbaum v. Zeller, 552 F.2d 402 (2d Cir. 1977)

Contact Lens Mfrs. Ass'n v. Food & Drug Admin. Dept. of Health and Human Services, 766 F.2d 592 247 (DC Cir 1985)

An FDA case. Lost in an opinion by the Notorious RBG. She's a legal Hall of Famer, but she got this one wrong.

***The Taisei Fire and Marine Insurance Co., Inc. v. Commissioner of Internal Revenue Service, 104 T.C. 535 (US Tax Ct 1995)**

Ted Scallet's only Tax Court case. Frequently cited in the International Tax area.