KAUFMAN | DOLOWICH

Mansfield Rule Certified 2022-2023

Court sets litigation schedule for fiduciary rule — expect appeals, On Wall Street, ft. Brendan McGarry

Brendan P. McGarry, Esq., was quoted in an article by Kenneth Corbin published in *On Wall Street on July 15, 2016.*

He commented on arguments in a case that are due to be presented to a judge seeking to overturn the Department of Labor's fiduciary rule in Dallas in November. Judge Barbara Lynn of the district court in Texas' Northern District has set a date of Nov. 17 for a hearing where the groups looking to overturn the rule are expected to seek an injunction blocking its implementation. Summary judgment briefs from the plaintiffs, which include the Financial Services Institute, the Insured Retirement Institute, and other prominent business groups, are due Monday, July 18. Legal experts say that the schedule is somewhat expedited for civil actions, though they note that the accelerated timetable isn't too surprising since the major facts in the case are not in dispute.

Brendan McGarry, an attorney with Kaufman Dolowich Voluck, notes that both had sought an even more compressed schedule for the case. For the DoL, he notes that the fiduciary rule had been bound up closely with the White House following President Obama's endorsement of the measure. "So it makes sense for the defendants here to want to have these cases resolved while the current administration is in place," McGarry says.

"As for the plaintiffs, their best chance to put off or amend the implementation of the rule is now," he says. "If they were to wait, their arguments could suffer from the appearance of being merely stall tactics."

McGarry notes that the venue-Texas' Northern District-could be a hospitable environment for the plaintiffs, citing two recent cases involving other regulations in which the court has issued injunctions against the Department of Labor.

"It appears the plaintiffs in the instant case have done their homework and chosen their forum well," McGarry says.

The Nasdaq website and Financial Advisor ***also picked up the Ken Corbin article in which Brendan McGarry was quoted.***

© 2024 Kaufman Dolowich. All Rights Reserved. | www.kaufmandolowich.com