



## *Attorneys React To High Court ERISA Reimbursement Ruling, Law360, ft. Tad A. Devlin*

Tad A. Devlin was quoted in a Law360 article on January 20, 2016. He comments on The U.S. Supreme Court ruling made on Wednesday, January 20, in *Montanile v. Board of Trustees of the National Elevator Industry Health Benefit Plan* that states a retirement plan cannot sue under the Employee Retirement Income Security Act for reimbursement of medical expenses from a third-party settlement that a plan participant has already spent.

*"Based on the USSC ruling, under ERISA, strict tracing — i.e., identifying a fund within the possession and control of the member/participant — is required. ERISA plans should implement more aggressive methods of payment detection and/or seek alternative means of issuing conditional payments through coordination of benefits procedures and protocols. Without the strict tracing requirement for ERISA reimbursement claims, the scope of potential liability would have potentially extended beyond plan members/participants to include any party who possessed the funds subject to an equitable lien, including attorneys representing plan members. Under the Montanile decision, proof and tracing issues will likely become more frequent and could result in incentivizing quick spending of plan money to avoid tracing and reimbursement claims."*