

# VIRGINIA LAWYERS WEEKLY

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## VERDICTS & SETTLEMENTS

# Benefits terminated based on comp/severance release

### \$399,168 in benefits reinstated

The claimant was injured at work on Dec. 19, 2011. Two claims arose out of that injury: a workers' compensation claim and an ERISA long-term disability benefits claim. Reliance Standard began paying benefits after agreeing that the claimant was disabled and entitled to benefits under the policy. In August 2014, however, the claimant settled his workers' compensation claim and signed a "resignation and release agreement" with his former employer in furtherance of that settlement. That agreement was between the claimant, his former employer and the employer's workers' compensation insurance carrier.

The release agreement stated that the claimant was releasing the former employer and its "affiliates, subsidiaries, directors, officers and others from ANY and ALL claims for damages related to the work injury, including claims arising under The Employee Retirement Income Security Act (ERISA)."

When Reliance saw the release, it immediately terminated benefits, claiming that the claimant had also released his ERISA



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long-term disability claim. In the administrative appeal to overturn that decision, an extensive legal argument was made, arguing that Reliance was not an intended beneficiary of the release; that Virginia contract law, not the general body of ERISA law governed the issue; that there was no consideration for the release of Reliance; and that the employer (who had purchased the ERISA group disability policy) never intended that the workers' compensation release also release the ERISA benefits claim. Documents that were exchanged during the workers' compensation claim between attorneys working on that case also were used to show that there was no intent whatsoever to have the ERISA benefits stop.

On administrative appeal, Reliance reversed its decision and reinstated benefits. The claimant has several years of benefits remaining with a total payout of just under \$400,000.

**Type of action:** Long-term disability insurance claim under ERISA

**Name of case:** Thompson v. Reliance Standard Insurance Company

**Resolved by:** Administrative appeal before filing

**Date resolved:** July 2015

**Verdict or settlement:** Reinstatement of disability benefits

**Amount:** \$399,168 (total benefits payable monthly to age 66)

**Attorney for plaintiff:** Benjamin W. Glass III

**Insurance carrier:** Reliance Standard Insurance Company

Note: the area of severance agreement/workers' compensation releases is an emerging area of risk for attorneys practicing in those areas of the law. In many cases, courts have sided with the ERISA insurance company and have broadly interpreted such releases as releasing all benefit claims under ERISA.

[15-T-105]