

“Conflicting Rulings in ERISA Cases Challenging Use of 401(k) Plan Forfeitures Create More Challenges for Plan Design and Administration,” *Employee Relations Law Journal*

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In an article for *Employee Relations Law Journal*, Partner Joseph Torres and Associate Katherine Funderburg examine how courts have seen a number of new ERISA class actions in which plaintiffs have challenged 401(k) plan sponsors’ use of forfeitures to offset employer matching contributions. The authors discuss two recent rulings in which two district courts in California reached conflicting results on motions to dismiss the claims of plaintiffs pursuing ERISA claims challenging the reallocation of 401(k) plan forfeitures.

“Plan sponsors should consider what, if any, impact these rulings or similar potential challenges may have on their 401(k) plans,” the authors write. “As with most ERISA claims, courts will first consider the language of the plan documents – including whether and to what extent the documents provide that forfeitures can be used to pay plan expenses or reduce employer contributions – in adjudicating further disputes over the use of forfeited employer contributions.”

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