

“No Leg to Stand On: Potential Standing Defenses to ERISA Health Plan Claims,” *Employee Relations Law Journal*

Publications

January 8, 2025

By: Joseph Torres, Hope H. Tone-O’Keefe, Jeffrey Salvatore

In an article for *Employee Relations Law Journal*, Partner Joseph Torres, and Associates Hope Tone-O’Keefe and Jeff Salvatore examine challenges to standing as a defense in excessive fee cases under the Employee Retirement Income Security Act (ERISA), following the Supreme Court’s ruling in *Thole v. US Bank N.A.* The authors review recent developments in this area and provide tips for plan sponsors who may encounter such claims.

[Read More](#)

“The Supreme Court’s decision in *Thole* and its circuit and district court progeny show that standing can be an effective defense against some of the more recent excessive fees cases that focus on health insurance plans,” the authors write. “Employers should consider the implications of these rulings when structuring their benefit packages and how they allocate health benefit-related cost-saving measures like drug rebates.”

Related Attorneys



Jeffrey Salvatore

Associate

jsalvadore@jenner.com

+1 312 840 7383



Joseph Torres

Partner

jtorres@jenner.com

+1 312 840 8685



Hope H. Tone-O'Keefe

Partner

htoneokeefe@jenner.com

+1 312 840 7286

Related Capabilities

ERISA

Related Locations

Chicago

© 2026 Jenner & Block LLP. Attorney Advertising. Jenner & Block LLP is an Illinois Limited Liability Partnership including professional corporations. This publication, presentation, or event is not intended to provide legal advice but to provide information on legal matters and/or firm news of interest to our clients and colleagues. Readers or attendees should seek specific legal advice before taking any action with respect to matters mentioned in this publication or at this event. The attorney responsible for this communication is Brent E. Kidwell, Jenner & Block LLP, 353 N. Clark Street, Chicago, IL 60654-3456. Prior results do not guarantee a similar outcome. Jenner & Block London LLP, an affiliate of Jenner & Block LLP, is a limited liability partnership established under the laws of the State of Delaware, USA and is authorised and regulated by the Solicitors Regulation Authority with SRA number 615729. Information regarding the data we collect and the rights you have over your data can be found in our Privacy Notice. For further inquiries, please contact dataprotection@jenner.com.

Stay Informed

