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McKinley Carter
MASTER YOUR WEALTH.



Greetings as we wind down the dog days of summer 2022. Ever wonder how that phrase came about?

When Sirius would appear in the sky just before the sun, near the end of July, that marked the beginning of the very hottest days of the year. The Romans referred to this period as "dies caniculares" or "days of the dog star," which was eventually translated as just "dog days."

Speaking of HOT — ERISA litigation is not cooling off.

The article, [Is Participant Choice a "Get Out of ERISA Court Free Card?"](#) is a recap of the much watched Supreme Court decision in Hughes vs. Northwestern University. To sum up the findings: "While the court voiced a need for a contextual approach to evaluating fiduciary decision making, **plan sponsors must remain vigilant with respect to actively monitoring and controlling fees.** They must also evaluate the prudence of including each individual investment in a plan's lineup. Over the prior two years, more than 150 excessive fee lawsuits have been filed. Twenty of those cases had been put on hold pending the outcome of the Hughes case."

[Revenue Sharing Decisions](#) is a topic we often preach about at McKinley Carter. We are revenue neutral and do NOT use any revenue sharing funds on plan

line ups. "As a result of the **significant rise in revenue sharing litigation** it behooves plan fiduciaries to confirm and document the prudence and appropriateness of any revenue sharing arrangement." It is rare that when we run across a plan that is currently utilizing revenue sharing that the plan fiduciaries understand it and deem it to be appropriate.

Turning away from Hot Fiduciary topics, we can look to the start of the U.S. Open on August 29. Fun facts about the Open:

- Men and women receive an equal amount of prize money, a tradition started in 1973. This designated tennis as the **first sport to award equal prize money to men and women**. *You go, tennis!*
- **The total payout for this year's tournament is up 10% to \$46.3 million**. First place pays \$3.5 million. A first round singles loss pays \$43,000. The \$46.3 million is the highest payout of any tennis tournament. Guess they needed to increase the payout to keep pace with inflation!
- The trophy is designed by Tiffany & Co. **The Tiffany tennis bracelet?** Its history is one immortalized by world-ranked tennis star Chris Evert in 1978 (not 1987 as some have reported) during the U.S. Open Tennis Championships.

The last article, [*Have You Met your Match?*](#), provides interesting plan statistics for your consideration including just how important your match is to your employees.

Thank you for taking time to open and read the articles in this edition.

As always, we at McKinley Carter appreciate the opportunity to serve you and your plan participants in their journey to retirement.

Sincerely,

McKinley Carter Wealth Services
866.306.2400

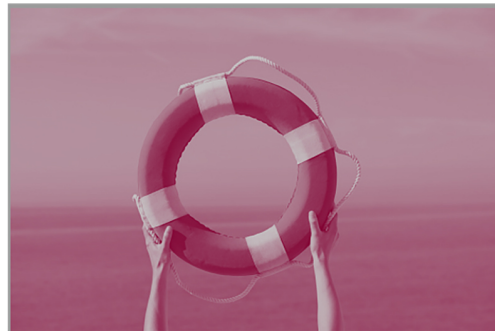
Is Participant Choice a "Get Out of ERISA Court Free Card"?

[~ by MCWS](#)

Finally, something everyone could agree on — at least on the Supreme Court of the United States. The question before the court in *Hughes v.*

Northwestern University was the plausibility of a breach of fiduciary duty claim stated by current and former participants in two university retirement plans. SCOTUS ruled that the petitioners in the case, originally dismissed by a district court and

upheld by the U.S. Court of Appeals for the Seventh Circuit, did in fact plausibly state their claim. The Supreme Court vacated the Seventh Court ruling and remanded the case for further review.



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Revenue Sharing Decisions

[~ by MCWS](#)

As a result of the significant rise in revenue sharing litigation it behooves plan fiduciaries to confirm and document the prudence and appropriateness of any revenue sharing arrangement.

Revenue sharing is the sharing of fees from one service provider (e.g., an investment fund manager) to another service provider (e.g., your record keeper). Revenue sharing may be built into a fund's asset-based expense ratio if a plan utilizes a higher cost share class. The revenue sharing is often used to offset plan-related expenses rather than having the plan sponsor or participant making direct payment for specific plan services.



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Have You Met Your Match?

~ by [MCWS](#)

Just how important is a 401(k) match to your employees? It appears to be top of mind, according to Principal's 2021 Retirement Security Survey. The study's results show that the match matters most, as the top retirement plan considerations of survey participants when considering a new job are as follows: employer match (91%), eligibility requirements (80%), vesting requirements (74%), investment options (73%) and withdrawal options at job change or retirement (70%).



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