ROCKWOOD PROTECTOR EMPLOYMENT BENEFIT PLAN FIDUCIARY LIABILITY CLAIMS STATISTICS AND RECENT JUDGMENTS

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Is liability insurance important for ERISA plan administrators?

The Employment Retirement Income Security Act (ERISA) requires that a fiduciary of an employee benefit plan act solely in the best interest of participants and beneficiaries. Fiduciaries can be held **personally liable** for any breach of their responsibilities. Recent studies indicate significant increases in claims severity and frequency over the past several years:

- The frequency of claims against fiduciaries increased threefold during the late 1990's. Plan fiduciaries now surpass the medical profession as a target for litigation.
- The average claim has surpassed $800,000–up from $700,000 just five years earlier. Defense costs during this same period rose 471%.
- More than 90% of the claims are filed by plan participants. Unions, government agencies, and other entities make up the remainder.
- Nearly 50% of the claims arise out of benefits disputes. Other issues that may give rise to legal action include administrative errors and deficiencies in the communication of participant benefits.

Recent Judgments

Remember–ERISA law mandates that fiduciaries may be held **personally liable for breaches of certain duties or responsibilities**. Consider a few of the most recent cases:

- **$439,560 Judgment** against the Trustees of a profit sharing plan accused of improperly concentrating plan investments in a single industry and investing a high proportion of the plan assets in a limited number of stocks.
- **$550,000 Awarded** to plan participants after administrators were accused of improperly investing plan assets in a residential development loan which defaulted.
- **$230,000 Judgment** against a health plan trustee who allegedly failed to monitor the performance of its third party administrator.
- **$236,000 Settlement** reached after trustees were accused of failing to adequately investigate the propriety of using life insurance polices as investments.
- **$72,000 Awarded** to employees after administrators of a pension plan failed to sufficiently communicate the early withdrawal penalties and excessive surrender charges of their life insurance policies.