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## **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.
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### **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 policies 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.
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