

401(k) Plan Participant Waived ERISA Stock-Drop Claim

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The **D.C. Circuit affirmed the decision of a district court** that Plaintiff Patrick Russell, a 401(k) plan participant, had **knowingly waived his right to assert an ERISA stock-drop claim** based on, among other things, the alleged imprudence of maintaining an employer stock fund as an investment option. Russell argued that the district court erred by not providing him with a “reasonable opportunity” to conduct discovery and present evidence on the issue of whether he knowingly and voluntarily consented to the severance agreement. The circuit court disagreed, concluding that all of the factors that go into evaluating whether a release was knowing and voluntary (e.g., the clarity of the agreement, the consideration given for the agreement, the plaintiff’s education and business experience, and whether plaintiff consulted with an attorney) were evident from the face of the severance agreement or within Russell’s own knowledge.

The case is *Russell v. Harman Int’l Indus.*, 2014 U.S. App. LEXIS 23359 (D.C. Cir. Dec. 12, 2014).

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