

The Supreme Court - January 14, 2020

Today, the Supreme Court of the United States issued two opinions:

Ritzen Group, Inc. v. Jackson Masonry, LLC, No. 18-938: After petitioner Ritzen Group brought a breach of contract claim against respondent Jackson Masonry in Tennessee state court, Jackson filed for Chapter 11 bankruptcy, and the state-court litigation was put on hold by operation of the Bankruptcy Code's automatic stay provision. When Ritzen's motion for relief from the automatic stay was denied, Ritzen did not file a notice of appeal from that order at that time, but only after the bankruptcy court's later confirmation of Jackson's reorganization plan. The District Court rejected Ritzen's appeal as untimely under 28 U.S.C. §158(c)(2) and Federal Rule of Bankruptcy Procedure 8002(a), which require appeals from final bankruptcy orders to be filed within 14 days after entry of the order being appealed. The Sixth Circuit affirmed. Today, in an opinion by Justice Ginsburg, the Court unanimously affirmed, holding that the adjudication of a motion for relief from the automatic stay forms a discrete procedural unit within the embrace of the bankruptcy case, and as such yields a final, appealable order when the bankruptcy court unreservedly grants or denies relief.

The Court's decision is available [here](#).

Retirement Plans Comm. of IBM v. Jander, No. 18-1165: This case, which arose from the Second Circuit, concerned the Court's prior decision in *Fifth Third Bancorp v. Dudenhoeffer*, 573 U.S. 409 (2014), in which it held that "[t]o state a claim for breach of the duty of prudence" imposed on plan fiduciaries by ERISA "on the basis of inside information, a plaintiff must plausibly allege an alternative action that the defendant could have taken that would have been consistent with the securities laws and that a prudent fiduciary in the same circumstances would not have viewed as more likely to harm the fund than to help it." The question presented in the petition for a writ of certiorari asked whether *Dudenhoeffer's* "more harm than good" pleading standard can be satisfied by generalized allegations that the harm of an inevitable disclosure of an alleged fraud generally increases over time." In the merits briefing, however, the petitioners and

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Government focused primarily on other issues. The petitioners argued that ERISA imposes no duty on an Employee Stock Ownership Plan (“ESOP”) fiduciary to act on inside information. And the Government contended that an ERISA-based duty to disclose inside information that is not otherwise required to be disclosed by the securities laws would conflict at least with objectives of complex insider trading and corporate disclosure requirements imposed by the federal securities laws. The Court today, in a *per curiam* opinion, concluded that the Court of Appeals did not address these arguments, and vacated the judgment below and remanded the case for the Second Circuit to decide whether to determine the merits of these issues.

The Court's decision is available [here](#).