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## Federal Court Finds that ERISA Preempts Illinois Genetic Privacy Act Claim

Fifty years ago, Congress enacted the Employee Retirement Income Security Act (“ERISA”) to create national standards for administering employee benefits plans, covering reporting, disclosures, fiduciary responsibilities, and remedies for noncompliance. To prevent states from enacting laws that might interfere with the uniform administration of these plans, Congress included a broad preemption provision, stating that ERISA overrides “any and all state laws” that “relate to” employee benefits plans. Despite this, federal courts have developed a complex body of case law interpreting ERISA preemption. Recently, ERISA’s preemption clause has affected the enforcement of the Illinois Genetic Information Privacy Act (“GIPA”).

GIPA, codified at 410 ILCS 513 *et seq.*, governs the disclosure of genetic information in Illinois and is designed to protect individuals from employment discrimination based on their genetic data. A recent court ruling highlights how ERISA preemption can influence state laws like GIPA.

In *Branson v. Caterpillar, Inc.*, No. 23-CV-14329, 2024 WL 3823157 (N.D. Ill. Aug. 14, 2024), plaintiffs Kerry Branson and Shelley Dotson, representing a proposed class, brought claims against their former employer, Caterpillar, Inc., alleging GIPA violations. They asserted two claims: (i) that Caterpillar violated GIPA Section 25(c)(1), which prohibits employers from requesting genetic information from applicants or their family members during the pre-employment process, and (ii) that Caterpillar violated GIPA Section 25(e), which prohibits the use of genetic information in connection with workplace wellness programs. Caterpillar moved to dismiss both claims.

Regarding the Section 25(c)(1) claim, Caterpillar argued that it had provided plaintiffs with safe harbor language in its medical questionnaire, advising them not to disclose genetic information. The court, however, found that the plaintiffs had sufficiently alleged that Caterpillar’s post-exam request for medical records could have violated Section 25(c)(1), allowing the claim to proceed.

In contrast, the court ruled that ERISA preempted the Section 25(e) claim. Caterpillar argued that the wellness exam plaintiffs were required to undergo was part of its employee health, life, and disability benefits program, and therefore the claim fell under ERISA preemption. The court agreed, concluding that because the wellness program was tied to an employee benefits plan, Section 25(e) “relates” to an ERISA plan and is preempted.

The *Branson* decision dealt with the preemption of GIPA Section 25(e) claims. Now, another judge in the Northern District of Illinois is considering whether ERISA’s preemption extends to GIPA Section 25(c)(1) claims. In *Harris-Morrison v. Sabert Corporation*, No. 1-23-CV-16120 (N.D. Ill.), the plaintiff brought a similar claim under Section 25(c)(1) on behalf of a proposed class. The employer moved to dismiss, arguing that ERISA preempts the claim because it involves a workplace wellness program related to ERISA-governed benefits. The court has yet to rule on the motion, and its decision will likely provide further guidance on whether ERISA’s preemption applies more broadly to GIPA claims or is limited to those involving wellness programs.

We will continue to monitor the *Harris-Morrison* case. In the meantime, please contact anyone in our [Labor & Employment Practice Group](#) if you have any questions.



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