

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

HILDA L. SOLIS, Secretary of Labor, United States Department of f Labor,	)	
	)	Civil Action
Plaintiff,	)	
	)	No.
v.	)	
	)	
PARALEGALS PLUS, INC., PARALEGALS PLUS, INC. SIMPLE IRA and JERRY HADEN	)	
	)	
Defendants.	)	

COMPLAINT

Plaintiff, Hilda L. Solis, Secretary of Labor, United States Department of Labor, brings this action against Defendants, Paralegals Plus, Inc., Paralegals Plus, Inc. SIMPLE IRA (“Plan”) and Jerry Haden, pursuant to Sections 502(a)(2) and 502(a)(5), 29 U.S.C. §§ 1132(a)(2) and 1132(a)(5), of the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. § 1001 et seq. (“ERISA”), for appropriate equitable and remedial relief under ERISA Sections 409 and 502(a)(5), 29 U.S.C. §§ 1109 and 1132(a)(5), to enjoin violations of the provisions of Title I of ERISA, and to obtain other appropriate relief to redress violations and to enforce the provisions of Title I of ERISA.

I. JURISDICTION

Jurisdiction of this action is conferred upon the Court by ERISA Section 502(e)(1), 29 U.S.C. § 1132(e)(1).

## II. VENUE

Venue of this action lies in the United States District Court, for the Northern District of Texas, Dallas Division, pursuant to ERISA Section 502(e)(2), 29 U.S.C. § 1132(e)(2).

## III. THE PLAN

A. Paralegals Plus, Inc. SIMPLE IRA (“Plan”) is, and at all times hereafter mentioned was, an employee benefit plan within the meaning of ERISA Section 3(3), 29 U.S.C. § 1002(3). The Plan was established by, and at all times hereinafter mentioned was maintained by, an employer engaged in commerce or in an industry or activity affecting commerce and is subject to Title I including Title I, Part 4 of ERISA pursuant to ERISA Sections 4(a)(1) and 401(a), 29 U.S.C. §§ 1003(a)(1) and 1101(a). During all times hereinafter mentioned, the Plan has been administered in Dallas, Texas within the jurisdiction of this Court.

## IV. THE DEFENDANTS

A. Defendant Paralegals Plus, Inc. is, and at all times hereinafter mentioned was, a Texas corporation doing business within the jurisdiction of this Court. At all times hereinafter mentioned, Paralegals Plus, Inc. has been an employer and Plan sponsor with respect to the Plan within the meaning of ERISA Sections 3(5) and 3(16)(B), 29 U.S.C. §§ 1002(5) and 1002(16)(B). Additionally, at all times hereinafter mentioned, Paralegals Plus, Inc. has been a fiduciary and a party in interest with respect to the Plan within the meaning of ERISA Sections 3(14) and 3(21)(A), 29 U.S.C. §§ 1002(14) and 1002(21)(A). At all times hereinafter mentioned, Paralegals Plus, Inc. has also been the Plan administrator pursuant to Section 3(16)(A)(ii), 29 U.S.C. § 1002(16)(A)(ii), because it is the Plan sponsor and the Plan documents do not specifically designate a Plan administrator.

B. At all relevant times, Defendant Jerry Haden was a fiduciary and a party in interest with respect to the Plan within the meaning of ERISA Sections 3(14) and 3(21)(A), 29 U.S.C. §§ 1002(14) and 1002(21)(A). At all relevant times, Defendant Jerry Haden was CEO of Paralegals Plus, Inc. and acted on its behalf with respect to the Plan, specifically in conducting the daily administration of the Plan as the functional Plan Administrator. At all relevant times, Defendant Jerry Haden had and exercised discretionary authority over Plan assets, including, but not limited to, determining when and whether employee contributions would be remitted to the Plan. During all relevant times, Defendant Jerry Haden conducted her job duties concerning the administration of the Plan in Dallas, Texas, within the jurisdiction of this Court.

C. The Plan, as described in paragraph III, above, is joined as a party Defendant pursuant to Rule 19(a) of the Federal Rules of Civil Procedure solely to assure that complete relief can be granted.

#### V. ERISA VIOLATIONS

A. Defendants Paralegals Plus, Inc. and Jerry Haden, fiduciaries with respect to the Plan, violated the provisions of ERISA in that they:

(1) Caused the assets of the Plan to inure to the benefit of the Employer and Plan Sponsor and failed to hold Plan assets for the exclusive purposes of providing benefits to participants in the Plan and their beneficiaries in violation of Section 403(c)(1) of ERISA, 29 U.S.C. §1103(C)(1);

(2) Failed to discharge their duties with respect to the Plan solely in the interest of the participants and beneficiaries and for the exclusive purpose of providing benefits to participants and their beneficiaries in violation of Section 404(a)(1)(A) of ERISA, 29 U.S.C. § 1104(a)(1)(A);

(3) Failed to discharge their duties to the Plan with the care, skill, prudence and diligence under the circumstances that a prudent person acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims in violation of Section 404(a)(1)(B) of ERISA, 29 U.S.C. § 1104(a)(1)(B);

(4) Caused the Plan to engage in transactions which they knew or should have known constitute a direct or indirect transfer to, or use by or for the benefit of, a party in interest, assets of such plan in violation of Section 406(a)(1)(D) of ERISA, 29 U.S.C. § 1106(a)(1)(D);

(5) Dealt with the assets of the Plan in their own interests or for their own accounts in violation of Section 406(b)(1) of ERISA, 29 U.S.C. § 1106(b)(1);

(6) Engaged in transactions involving the Plan on behalf of a party whose interests were adverse to the interests of such plan and the interests of its participants and beneficiaries in violation of Section 406(b)(2) of ERISA, 29 U.S.C. § 1106(b)(2);

B. During the period of January 2006 through December 2006, the aforementioned violations occurred in, but were not limited to, the following Plan transactions: failing to remit employee contributions and Plan assets to the Plan; permitting Paralegals Plus, Inc., a party in interest, to use Plan assets for its own benefit; failing to segregate Plan assets; and failing to properly administer the Plan. The fiduciaries' violations during Plan Year 2006 resulted in

\$21,615.00 in employee contributions being untimely deposited into the Plan, and \$10,055.73 in employee contributions not being deposited at all. As a result, the Plan has lost opportunity costs that cannot be accurately calculated until the \$10,055.73 in employee contributions that have yet to be deposited into the Plan are remitted.

#### VI. DIRECT LIABILITY

As a result of engaging in breaches of its fiduciary responsibilities, obligations, or duties and by engaging in transactions prohibited by ERISA, as described in Part V of this Complaint, Defendants, Paralegals Plus, Inc. and Jerry Haden, have caused the Plan to suffer financial losses for which they are jointly and severally liable pursuant to ERISA Section 409(a), 29 U.S.C. § 1109(a).

#### VII. COFIDUCIARY LIABILITY

Pursuant to the provisions of ERISA Section 405, 29 U.S.C. § 1105, Defendants, Paralegals Plus, Inc. and Jerry Haden, fiduciaries with respect to the Plan, are personally liable for the breaches of fiduciary responsibility set forth in paragraph V, above, committed by their co-fiduciaries with respect to the Plan.

#### VIII. PRAYER

WHEREFORE, cause having been shown, plaintiff, Secretary of Labor prays that this Court:

1. Permanently enjoin Defendants Paralegals Plus, Inc. and Jerry Haden from violating the provisions of ERISA;

2. Order Defendants Paralegals Plus, Inc. and Jerry Haden to restore all losses to the Plan, with interest thereon, resulting from their breaches of fiduciary obligations, to correct all prohibited transactions, and if necessary, to offset any claims or benefits which they may have against or with the Plan against the amount of losses, including lost opportunity costs, resulting from their violations;

3. Order Defendants to appoint an independent fiduciary to be approved by Plaintiff and the Court to marshal the assets of the Plan and to process account distribution when reasonable and appropriate to do so;

4. Order that any expenses associated with the appointment of an independent fiduciary and the subsequent administration of the Plan be paid by Defendants;

5. Enjoin Defendants Paralegals Plus, Inc. and Jerry Haden from acting as fiduciaries to the Plan or any other employee benefit plan covered by ERISA;

6. Award plaintiff costs of this action; and

7. Provide such other remedial relief as may be appropriate.

Respectfully Submitted,

M. PATRICIA SMITH  
Solicitor of Labor

JAMES E. CULP  
Regional Solicitor

ROBERT A. GOLDBERG  
Counsel for ERISA

s/ TD Juarez

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Attorneys for Plaintiff.

CIVIL COVER SHEET

The JS 44 civil coversheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Hilda L. Solis, Secretary of Labor, U.S. Department of Labor

(b) County of Residence of First Listed Plaintiff (EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number) Tina D. Juarez, Office of the Solicitor, 525 S. Griffin St., Ste. 501, Dallas, Tx 75202, (972) 850-3100

DEFENDANTS

Paralegals Plus, Inc., Paralegals Plus, Inc. SIMPLE IRA Plan, and Jerry Haden

County of Residence of First Listed Defendant Dallas (IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- 1 U.S. Government Plaintiff, 2 U.S. Government Defendant, 3 Federal Question (U.S. Government Not a Party), 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Table with columns for Plaintiff (PTF) and Defendant (DEF) citizenship: Citizen of This State, Citizen of Another State, Citizen or Subject of a Foreign Country, Incorporated or Principal Place of Business In This State, Incorporated and Principal Place of Business In Another State, Foreign Nation.

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Large table with categories: CONTRACT, REAL PROPERTY, TORTS, CIVIL RIGHTS, PRISONER PETITIONS, FORFEITURE/PENALTY, LABOR, IMMIGRATION, BANKRUPTCY, SOCIAL SECURITY, FEDERAL TAX SUITS, OTHER STATUTES.

V. ORIGIN

- 1 Original Proceeding, 2 Removed from State Court, 3 Remanded from Appellate Court, 4 Reinstated or Reopened, 5 Transferred from another district (specify), 6 Multidistrict Litigation, 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): ERISA, 29 U.S.C. §§ 1132(a)(2) and 1132(a)(5). Brief description of cause: Lawsuit for appropriate remedial and equitable relief under ERISA for breaches of fiduciary responsibility.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) (See instructions) PENDING OR CLOSED:

JUDGE DOCKET NUMBER

DATE 11/15/2010 SIGNATURE OF ATTORNEY OF RECORD s/ TD Juarez

FOR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE

**INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44**

**Authority For Civil Cover Sheet**

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

**I. (a) Plaintiffs-Defendants.** Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)."

**II. Jurisdiction.** The basis of jurisdiction is set forth under Rule 8(a), Fed. R. Civ. P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.

United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.

United States defendant. (2) When the plaintiff is suing the United States, its officers, or agencies, place an "X" in this box.

Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress, or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.

Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; federal question actions take precedence over diversity cases.)

**III. Residence (citizenship) of Principal Parties.** This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

**IV. Nature of Suit.** Place an "X" in the appropriate box. If the nature of suit cannot be determined, be sure the cause of action, in Section VI below, is sufficient to enable the deputy clerk or the statistical clerks in the Administrative Office to determine the nature of suit. If the cause fits more than one nature of suit, select the most definitive.

**V. Origin.** Place an "X" in one of the seven boxes.

Original Proceedings. (1) Cases which originate in the United States district courts.

Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441. When the petition for removal is granted, check this box.

Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.

Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.

Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.

Multidistrict Litigation. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407. When this box is checked, do not check (5) above.

Appeal to District Judge from Magistrate Judgment. (7) Check this box for an appeal from a magistrate judge's decision.

**VI. Cause of Action** Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity** Example U.S. Civil Statute: 47 USC 553  
Brief Description: Unauthorized reception of cable service

**VII. Requested in Complaint.** Class Action. Place an "X" in this box if you are filing a class action under Rule 23, Fed. R. Civ. P.

Demand. In this space enter the dollar amount (in thousands of dollars) being demanded or indicate other demand, such as a preliminary injunction.

Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

**VIII. Related Cases.** This section of the JS 44 is used to reference cases that are related to this filing, if any. If a related case exists, whether pending or closed, insert the docket numbers and the corresponding judge names for such cases. A case is "related" to this filing if the case: (1) involves some or all of the same parties and is based on the same or similar claim; (2) involves the same property, transaction, or event; (3) involves substantially similar issues of law and fact; and/or (4) involves the same estate in a bankruptcy appeal.

**Date and Attorney Signature.** Date and sign the civil cover sheet.