

Guidry Vs. Sheet Metal Workers

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SooperKanoon Citation : sooperkanoon.com/106997

Court : US Supreme Court

Decided On : 1990

Appeal No. : 493 U.S. 365

Appellant : Guidry

Respondent : Sheet Metal Workers

Judgement :

Guidry v. Sheet Metal Workers - 493 U.S. 365 (1990)

U.S. Supreme Court Guidry v. Sheet Metal Workers, 493 U.S. 365 (1990)

Guidry v. Sheet Metal Workers National Pension Fund

No. 88-1105

Argued Nov. 29, 1989

Decided Jan. 17, 1990

493 U.S. 365

*CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR
THE TENTH CIRCUIT*

SYLLABUS

Petitioner Guidry, a former official of respondent Union and trustee of one of respondent pension plans, pleaded guilty to embezzling funds from the Union in violation of 501(c) of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA). Since his union employment had made him eligible for benefits from respondent plans, he filed suit in the District Court against two of the plans when they determined that he had forfeited his right to benefits as a result of his criminal activity. The Union intervened, joined the third plan as a party, and stipulated with Guidry to the entry of a money judgment in its favor. The court rejected the funds' contention that Guidry had forfeited his right to benefits. It ruled, however, that a constructive trust in the Union's favor should be imposed on Guidry's pension benefits until the judgment was satisfied. Reading the Employment Retirement Income Security Act of 1974 (ERISA) *in pari materia* with, *inter alia*, the LMRDA -- which seeks to combat union officials' corruption and to protect membership interests -- the court concluded that a narrow exception to ERISA's prohibition on assignment or alienation of pension benefits, 206(d)(1), is appropriate where "the viability of a union and the members' pension plans was damaged by the knavery of a union official." The Court of Appeals affirmed. Relying on ERISA 409(a) -- which makes a faithless plan fiduciary personally liable for losses to the plan resulting from his breach and subjects him to other appropriate equitable or remedial relief -- the court concluded that 206(d)(1) did not preclude the imposition of the constructive trust, deeming it unlikely that Congress intended to ignore equitable principles by protecting individuals such as Guidry from the consequences of their misconduct.

Held: The constructive trust violates ERISA's prohibition on assignment or alienation of pension benefits. Pp. [493 U. S. 371](#) -377.

(a) The constructive trust remedy is prohibited by 206(d)(1) unless some exception to the general statutory ban is applicable. *Cf. Mackey v. Lanier Collections Agency & Service, Inc.*, [486 U. S. 825](#) , [486 U. S. 836](#) -837. [493 U. S.](#) 371-372.

(b) It is unnecessary to decide whether 409(a)'s remedial provisions supersede 206(d)(1)'s bar, since Guidry has not been found to have

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breached any fiduciary duty to the pension plans. Although his actions may have harmed the Union's members who were fund beneficiaries, he was convicted of stealing money only from the Union, and the funds and the Union are distinct legal entities. [493 U. S.](#) 372-374.

(c) Assuming that LMRDA 501 authorizes the imposition of a constructive trust when a union officer has breached his fiduciary duties, that authorization does not override ERISA's anti-alienation provision. Contrary to respondents' argument, the LMRDA will not be modified, impaired, or superseded in violation of ERISA 514(d)'s saving clause if ERISA pension plans cannot be used to effectuate the LMRDA's remedial goals. A broad reading of 514(d) would eviscerate 206(d)'s protections by rendering 206(d)(1) inapplicable whenever a judgment creditor relied on the remedial provisions of a federal statute. The two statutes are more persuasively reconciled by holding that the LMRDA determines what sort of judgment the aggrieved party may obtain, while ERISA governs the narrow question whether that judgment may be collected through a particular means. Pp. [493 U. S. 374](#) -376.

(d) It is also inappropriate to approve any generalized equitable exception to ERISA's anti-alienation provision. The identification of exceptions to the statutory bar is a task for Congress, not the courts. An equitable exception to an antigarnishment rule would be especially problematic, since a restriction on garnishment can be defended only on the view that the effectuation of certain broad social policies sometimes takes precedence over the desire to do equity between particular parties. Pp. [493 U. S. 376](#) -377.

856 F.2d 1457, reversed and remanded.

BLACKMUN, J., delivered the opinion of the Court, in which REHNQUIST, C.J., and BRENNAN, WHITE, STEVENS, O'CONNOR, SCALIA, and KENNEDY, JJ.,

joined, and in all but Part II-C of which MARSHALL, J., joined.

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Justice BLACKMUN delivered the opinion of the Court. [*](#)

Petitioner Curtis Guidry pleaded guilty to embezzling funds from his union. The union obtained a judgment against him for \$275,000. The District Court imposed a constructive trust on Guidry's pension benefits, and the United States Court of Appeals for the Tenth Circuit affirmed that judgment. Petitioner contends that the constructive trust violates the statutory prohibition on assignment or alienation of pension benefits imposed by the Employee Retirement Income Security Act of 1974, 88 Stat. 829, *as amended* (ERISA), 29 U.S.C. 1001 *et seq.* [[Footnote 1](#)]

I

From 1964 to 1981, petitioner Guidry was the chief executive officer of respondent Sheet Metal Workers International Association, Local 9 (Union). From 1977 to 1981, he was also a trustee of respondent Sheet Metal Workers Local No. 9 Pension Fund. Petitioner's employment made him eligible to receive benefits from three union pension funds. [[Footnote 2](#)]

In 1981, the Department of Labor reviewed the Union's internal accounting procedures. That review demonstrated that Guidry had embezzled substantial sums of money from the Union. See App. 20. This led to petitioner's resignation. A subsequent audit indicated that over \$998,000 was missing. *Id.* at 26. In 1982, petitioner pleaded guilty to embezzling more than \$377,000 from the Union, in violation of 501(c) of the Labor-Management Reporting and Disclosure Act of 1959 (LMRDA), 73 Stat. 536, 29 U.S.C. 501(c). [[Footnote 3](#)]

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Petitioner began serving a prison sentence. In April, 1984, while still incarcerated, petitioner filed a complaint against two of the plans in the United States District

Court for the District of Colorado, alleging that the plans had wrongfully refused to pay him the benefits to which he was entitled. [[Footnote 4](#)] The Union intervened, joined the third pension plan as a party, and asserted six claims against petitioner. [[Footnote 5](#)] On the first five claims, petitioner and the Union stipulated to the entry of a \$275,000 judgment in the Union's favor. App. 52-58. Petitioner and the Union agreed to litigate the availability of the constructive trust remedy requested in the sixth claim. *Id.* at 58.

Petitioner previously had negotiated a settlement with the Local No. 9 Pension Fund. *Id.* at 44-46. [[Footnote 6](#)] The other two

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plans, however, contended that petitioner had forfeited his right to receive benefits as a result of his criminal misconduct. *Id.* at 47-50. In the alternative, those plans contended that, if petitioner were found to have a right to benefits, those benefits should be paid to the Union rather than to Guidry. *Ibid.*

The District Court therefore was confronted with three different views regarding the disbursement of petitioner's pension benefits. Petitioner contended that the benefits should be paid to him. The two funds argued that the benefits had been forfeited. The Union asserted that the benefits had not been forfeited, but that a constructive trust should be imposed so that the benefits would be paid to the Union rather than to petitioner.

The District Court first rejected the funds' claim that petitioner had forfeited his right to benefits. 641 F.Supp. 360, 362 (Colo.1986). The court relied on 203(a) of ERISA, 29 U.S.C. 1053(a), which declares that "[e]ach pension plan shall provide that an employee's right to his normal retirement benefit is nonforfeitable" if the employee meets the statutory age and years of service requirements. 641 F.Supp. at 361-362. The court noted other district court and court of appeals decisions holding that pension benefits were not forfeitable even upon a showing of the covered employee's misconduct. *Id.* at 362. [[Footnote 7](#)]

The court concluded, however, that the prohibition on assignment or alienation of pension benefits contained in ERISA's 206(d)(1), 29 U.S.C. 1056(d)(1), did not preclude the imposition of a constructive trust in favor of the Union. The court appeared to recognize that the anti-alienation provision generally prohibits the garnishment of pension benefits as a means of collecting a judgment. The

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court, nevertheless, stated: "ERISA must be read *in pari materia* with other important federal labor legislation." 641 F.Supp. at 362. In the Labor Management Relations Act, 1947, 61 Stat. 136, *as amended*, 29 U.S.C. 141 *et seq.*, and in the LMRDA, Congress sought to combat corruption on the part of union officials and to protect the interests of the membership. Viewing these statutes together with ERISA, the District Court concluded:

"In circumstances where the viability of a union and the members' pension plans was damaged by the knavery of a union official, a narrow exception to ERISA's anti-alienation provision is appropriate."

641 F.Supp. at 363. The court therefore ordered that benefits payable to petitioner from all three funds should be held in constructive trust until the Union's judgment and interest thereon were satisfied. *Ibid.*

The United States Court of Appeals for the Tenth Circuit affirmed. 856 F.2d 1457 (1988). The court concluded that ERISA's anti-alienation provision could not be invoked to protect a dishonest pension-plan fiduciary whose breach of duty injured the beneficiaries of the plan. The court deemed it

"extremely unlikely that Congress intended to ignore equitable principles by protecting individuals such as [petitioner] from the consequences of their misconduct."

Id. at 1460. The court concluded that

"the district court's imposition of a constructive trust on [petitioner's] pension benefits both accorded with . . . principles of trust law and was well within its

discretionary power as defined by the common law and ERISA."

Id. at 1461. [[Footnote 8](#)]

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Because Courts of Appeals have expressed divergent views concerning the availability of exceptions to ERISA's antialienation provision, [[Footnote 9](#)] we granted certiorari, 492 U.S. 904 (1989).

II

Both the District Court and the Court of Appeals presumed that 206(d)(1) of ERISA erects a general bar to the garnishment of pension benefits from plans covered by the Act. This Court, also, indicated as much, although in dictum, in *Mackey v. Lanier Collections Agency & Service, Inc.*, [486 U. S. 825](#) (1988). In *Mackey*, the Court held that ERISA does *not* bar the garnishment of welfare (e.g., vacation) benefits. In reaching that conclusion, it noted that 206(d)(1) proscribes the assignment or alienation of *pension* plan benefits, but that no comparable provision applies to ERISA *welfare* benefit plans. *Id.* at [486 U. S. 836](#) . It reasoned that

"when Congress was adopting ERISA, it had before it a provision to bar the alienation or garnishment of ERISA plan benefits, and chose to impose that limitation only with respect to ERISA pension benefit plans, and *not* ERISA welfare benefit plans."

Id. at [486 U. S. 837](#) (emphasis in original). The view that the statutory restrictions on assignment or alienation of pension benefits apply to garnishment is consistent with applicable

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administrative regulations, [[Footnote 10](#)] with the relevant legislative history, [[Footnote 11](#)] and with the views of other federal courts. [[Footnote 12](#)] It is also

consonant with other statutory provisions designed to safeguard retirement income. [[Footnote 13](#)] We see no meaningful distinction between a writ of garnishment and the constructive trust remedy imposed in this case. That remedy is therefore prohibited by 206(d)(1) unless some exception to the general statutory ban is applicable.

A

The Court of Appeals, in holding that "the district court's use of a constructive trust to redress breaches of ERISA was proper," 856 F.2d at 1460, indicated that an exception to the anti-alienation provision can be made when a pension plan fiduciary breaches a duty owed to the plan itself. The court

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relied on 409(a) of ERISA, 29 U.S.C. 1109(a), which provides that a faithless pension plan fiduciary

"shall be personally liable to make good to such plan any losses to the plan resulting from each such breach . . . and shall be subject to such other equitable or remedial relief as the court may deem appropriate."

856 F.2d at 1459. We need not decide whether the remedial provisions contained in 409(a) supersede the bar on alienation in 206(d)(1), since petitioner has not been found to have breached any fiduciary duty *to the pension plans*. Respondents contend that, due to the nature of petitioner's scheme, there exists continuing uncertainty as to how much money was stolen from the Union and how much was taken from the pension funds. [[Footnote 14](#)] It is clear, however, that petitioner was convicted of stealing money only from the Union. See [n](#) 3, *supra*. Moreover, petitioner has negotiated a settlement with the fund of which he was a fiduciary, and only the Union has a judgment against him. Respondents' argument plays on the natural tendency to blur the distinctions between a fund and its related union (since an injury to either will hurt the union's membership). Respondents, however, cannot avoid the fact that the funds here and the Union are distinct legal entities. (Indeed, at an earlier stage of the litigation, these parties

took inconsistent positions: the funds argued that petitioner's benefits were subject to forfeiture, while the Union contended that petitioner retained his right to benefits, but that the benefits should be placed in constructive trust). Although petitioner's actions may have harmed the Union's members who are the beneficiaries of

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the funds, petitioner has not been found to have breached any duty to the plans themselves. In our view, therefore, the Court of Appeals erred in invoking 409(a)'s remedial provisions.

B

Recognizing the problem with the Court of Appeals' approach, respondents, like the District Court, rely principally on the remedial provisions of the LMRDA. Section 501(a), 29 U.S.C. 501(a), of that Act states that a union's officers "occupy positions of trust in relation to such organization and its members as a group" and therefore have a duty "to hold its money and property solely for the benefit of the organization and its members." Section 501(b), 29 U.S.C. 501(b), provides, under certain conditions, a private right of action "to recover damages or secure an accounting or other appropriate relief for the benefit of the labor organization." [[Footnote 15](#)] We assume, without deciding, that the statutory provision for "other appropriate relief" may authorize, in some circumstances, the imposition of a constructive trust. [[Footnote 16](#)] The question is whether that authorization may

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override ERISA's prohibition on the alienation of pension benefits.

Respondents point to 514(d) of ERISA, 29 U.S.C. 1144(d). It states:

"Nothing in this subchapter shall be construed to alter, amend, modify, invalidate, impair, or supersede any law of the United States . . . or any rule or regulation issued under any such law."

In respondents' view, application of ERISA's anti-alienation provision to preclude a remedy that would otherwise be available would "modify, impair or supersede" the LMRDA. We do

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not believe, however, that the LMRDA will be modified, impaired, or superseded by our refusal to allow ERISA pension plans to be used to effectuate the remedial goals of the LMRDA. Were we to accept respondents' position, ERISA's anti-alienation provision would be inapplicable whenever a judgment creditor relied on the remedial provisions of a federal statute. Such an approach would eviscerate the protections of 206(d), and we decline to adopt so broad a reading of 514(d). [[Footnote 17](#)]

It is an elementary tenet of statutory construction that "[w]here there is no clear intention otherwise, a specific statute will not be controlled or nullified by a general one. . . ." *Morton v. Mancari*, [417 U. S. 535](#) , [417 U. S. 550](#) -551 (1974). We do not believe that congressional intent would be effectuated by reading the LMRDA's general reference to "other appropriate relief" as overriding an express, specific congressional directive that pension benefits not be subject to assignment or alienation. In our view, the two statutes are more persuasively reconciled by holding that the LMRDA determines what sort of *judgment* the aggrieved party may obtain, while ERISA governs the narrow question whether that judgment may be collected through a particular means -- a constructive trust placed *on the pension*.

C

Nor do we think it appropriate to approve any generalized equitable exception -- either for employee malfeasance or for criminal misconduct -- to ERISA's prohibition on the assignment or alienation of pension benefits. Section 206(d) reflects a considered congressional policy choice, a decision to safeguard a stream of income for pensioners (and their dependents, who may be, and perhaps usually are, blameless), even if that decision prevents others from securing relief

for the wrongs done them. If exceptions to this policy are to be made, it is for Congress to undertake that task. [[Footnote 18](#)]

As a general matter, courts should be loath to announce equitable exceptions to legislative requirements or prohibitions that are unqualified by the statutory text. The creation of such exceptions, in our view, would be especially problematic in the context of an antigarnishment provision. Such a provision acts, by definition, to hinder the collection of a lawful debt. A restriction on garnishment therefore can be defended *only* on the view that the effectuation of certain broad social policies sometimes takes precedence over the desire to do equity between particular parties. It makes little sense

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to adopt such a policy and then to refuse enforcement whenever enforcement appears inequitable. A court attempting to carve out an exception that would not swallow the rule would be forced to determine whether application of the rule in particular circumstances would be "especially" inequitable. The impracticability of defining such a standard reinforces our conclusion that the identification of any exception should be left to Congress.

Understandably, there may be a natural distaste for the result we reach here. The statute, however, is clear. In addition, as has been noted above, the malefactor often is not the only beneficiary of the pension.

The judgment of the Court of Appeals is reversed, and the case is remanded for further proceedings consistent with this opinion. [[Footnote 19](#)]

It is so ordered.

* Justice MARSHALL joins all but Part II-C of this opinion.

[[Footnote 1](#)]

Section 206(d)(1), 29 U.S.C. 1056(d)(1), of ERISA states: "Each pension plan shall provide that benefits provided under the plan may not be assigned or

alienated."

[[Footnote 2](#)]

In addition to the Local No. 9 Pension Fund, petitioner was eligible to receive benefits from respondent Sheet Metal Workers National Pension Fund and from respondent Sheet Metal Workers Local Unions and Councils Pension Fund.

[[Footnote 3](#)]

Section 501(c) provides:

"Any person who embezzles, steals, or unlawfully and willfully abstracts or converts to his own use, or the use of another, any of the moneys, funds, securities, property, or other assets of a labor organization of which he is an officer, or by which he is employed, directly or indirectly, shall be fined not more than \$10,000 or imprisoned for not more than five years, or both."

[[Footnote 4](#)]

The complaint alleged that petitioner was eligible to receive benefits of \$577 per month from the Sheet Metal Workers Local Unions and Councils Pension Fund, and \$647.51 per month from the Sheet Metal Workers National Pension Fund. App. 5.

[[Footnote 5](#)]

The first claim alleged that Guidry had breached his fiduciary duty to the Union in violation of 501(a) of the LMRDA, 29 U.S.C. 501(a). App. 32. The second through fifth claims asserted state common law claims under theories of conversion, fraud, equitable restitution, and negligence. *Id.* at 33-35. The sixth claim, asserted against petitioner and the three pension funds, did not set forth a substantive ground for relief. Rather, it asserted that the District Court

"must restrain and enjoin the Pension Funds from paying any further pension benefits to Plaintiff Guidry until the completion of this action and thereafter until

[the Union] is made whole for its losses."

Id. at 35.

[[Footnote 6](#)]

The parties stipulated that the Local No. 9 Pension Fund was holding \$23,865 in accrued benefits for petitioner. *Id.* at 45. Under the settlement, the fund agreed to pay petitioner \$3,865 in accrued benefits (the remaining \$20,000 to go to the fund's insurer) and to resume monthly payments to petitioner as of June, 1985. *Id.* at 46.

[[Footnote 7](#)]

The District Court cited *Fremont v. McGraw Edison Co.*, 606 F.2d 752 (CA7 1979), *cert. denied*, 445 U.S. 951 (1980); *Winer v. Edison Brothers Stores Pension Plan*, 593 F.2d 307 (CA8 1979); and *Vink v. SHV North America Holding Corp.*, 549 F.Supp. 268 (SDNY 1982).

[[Footnote 8](#)]

In the alternative, petitioner contended that, even if ERISA did not bar the imposition of a constructive trust, 75% of his pension benefits should be exempt from garnishment pursuant to 303 of the Consumer Credit Protection Act, 82 Stat. 163, *as amended*, 15 U.S.C. 1673(a). The Court of Appeals rejected that argument on the ground that petitioner had failed to comply with the procedural requirements of the Colorado garnishment laws. 856 F.2d at 1463-1464.

[[Footnote 9](#)]

Compare *Ellis National Bank of Jacksonville v. Irving Trust Co.*, 786 F.2d 466 (CA2 1986) (no exception to 206(d)(1) to obtain relief for employee's criminal misconduct); *United Metal Products Corp. v. National Bank of Detroit*, 811 F.2d 297 (CA6 1987) (same), *cert. dism'd*, 485 U.S. 1017 (1988), with *St. Paul Fire and Marine Ins. Co. v. Cox*, 752 F.2d 550, 552 (CA11 1985) ("garnishment undertaken to satisfy liabilities arising from criminal misconduct toward an

employer constitutes an exception to the non-alienability provisions of ERISA"). See also *Crawford v. La Boucherie Bernard Ltd.*, 259 U.S.App.D.C. 279, 815 F.2d 117, cert. denied sub nom. *Goldstein v. Crawford*, 484 U.S. 943 (1987) (recognizing exception to anti-alienation provision when trustee defrauds the pension plan).

[[Footnote 10](#)]

Treasury Department regulations state that, for tax purposes,

"a trust will not be qualified unless the plan of which the trust is a part provides that benefits provided under the plan may not be anticipated, assigned (either at law or in equity), alienated or subject to attachment, garnishment, levy, execution or other legal or equitable process."

26 CFR 1.401(a)-13(b)(1) (1989).

[[Footnote 11](#)]

The anti-alienation provision permits "any voluntary and revocable assignment of not to exceed 10 percent of any benefit payment." 29 U.S.C. 1056(d)(2). The Conference Report states: "For purposes of this rule, a garnishment or levy is not to be considered a voluntary assignment." H.R.Conf.Rep. No. 93-1280, p. 280 (1974).

[[Footnote 12](#)]

See, e.g., *United Metal Products, supra*; *Ellis National Bank, supra*; *Tenneco Inc. v. First Virginia Bank of Tidewater*, 698 F.2d 688, 689-690 (CA4 1983). Even courts that have recognized equitable exceptions to the bar on alienation have assumed that 206(d)(1) operates, as a general matter, to proscribe garnishment of pension benefits. See *St. Paul Fire and Marine*, 752 F.2d at 551-552; *Crawford*, 259 U.S.App.D.C. at 283-284, 815 F.2d at 121-122.

[[Footnote 13](#)]

The garnishment of retirement benefits is prohibited by the Social Security Act, 42 U.S.C. 407; the Railroad Retirement Act, 45 U.S.C. 231m(a) (1982 ed. Supp. V); the Civil Service . Retirement Act, 5 U.S.C. 8346(a); and the Veterans' Benefits Act, 38 U.S.C. 3101(a).

[[Footnote 14](#)]

One of the ways in which petitioner embezzled was by stealing checks issued by the funds to the Union as payment for clerical services. At oral argument before the District Court, the Union's attorney stated: "Nobody really decided yet whether some of this money was stolen from the union or the pension funds." III Record on Appeal 19, App. to Pet. for Cert. C-13. Counsel also stated, however, that

"the trust funds through bonds and other sources of compensation don't have claims against Mr. Guidry anymore, and we do, the union does. . . . The way things shake out, we are holding the bag. We are the ones who lost the money. . . ."

Ibid.

[[Footnote 15](#)]

Section 501(c), 29 U.S.C. 501(c), under which petitioner was convicted, establishes criminal penalties for embezzlement or theft by a union officer or employee.

[[Footnote 16](#)]

Section 501(b), 29 U.S.C. 501(b), by its terms, does not establish a private right of action for a union itself. Rather, it provides that a suit may be brought in District Court by a union member when a union officer is alleged to have breached his duties

"and the labor organization or its governing board or officers refuse or fail to sue or recover damages or secure an accounting or other appropriate relief within a reasonable time after being requested to do so by any member of the labor

organization."

That language certainly contemplates that a union may bring suit against its officers in some forum, but it does not expressly provide an independent basis for federal jurisdiction. Courts have reached inconsistent positions on the question whether a union may bring suit under 501. *Compare Building Material and Dump Truck Drivers, Local 420 v. Traweck*, 867 F.2d 500, 506-507 (CA9 1989) (no right of action), *with BRAC v. Orr*, 95 LRRM 2701, 2702, 1977 WL 1661 (ED Tenn.1977) (union has right of action to allege a violation of 501). We need not resolve that question here. Rather, we assume, without deciding, that a union may invoke the remedial provisions of 501(b).

Uncertainty as to the scope of 501(b) does not call into question the subject matter jurisdiction of this Court or of the District Court and the Court of Appeals. This suit properly was brought by petitioner under 502 of ERISA to recover benefits allegedly due him under the pension plans. 29 U.S.C. 1132(a)(1)(B) and 1123(e).

[[Footnote 17](#)]

Indeed, the LMRDA has its own saving clause. Section 603(a), 29 U.S.C. 523(a), provides that

"except as explicitly provided to the contrary, nothing in this chapter shall take away any right or bar any remedy to which members of a labor organization are entitled under [any] other Federal law or law of any State."

This provision weighs against respondents' contention that the LMRDA's authorization of "other appropriate relief" supersedes ERISA's express proscription of any alienation or assignment of pension benefits.

[[Footnote 18](#)]

See, for example, 104(a) of the Retirement Equity Act of 1984, 98 Stat. 1433, 29 U.S.C. 1056(d)(3) (1982 ed. Supp. V), where Congress mandated that the anti-alienation provision should not apply to a "qualified domestic relations order."

[[Footnote 19](#)]

In light of our disposition of petitioner's ERISA claim, we need not address his alternative claim under the Consumer Credit Protection Act.

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