

### Katten Obtains Dismissal of ERISA 401(k) Plan "Stock Drop" Class Action for SunEdison, Inc.

March 27, 2014

The US District Court for the Eastern District of Missouri dismissed a putative ERISA class action “stock drop” lawsuit filed against manufacturer SunEdison, Inc. on behalf of participants in the plan. Plaintiffs contended that the company illegally hid production problems and thus caused its stock value to fall. In dismissing the case, the district court considered the so-called *Moench* presumption, which provides that plaintiffs in employer stock cases brought under ERISA must prove that the plan permitted investment of plan assets in company stock at a time when no prudent investor would have done so. As reported in the article, the court found that “the price of [the company's] stock remained significant” during the subject time period and concluded that “the mere fact that a company's stock value may decline, even substantially, is not enough to overcome *Moench*.” Gary W. Howell, Christian T. Kemnitz, Jennifer C. Ryan and Jonathan S. Sabol represented SunEdison, Inc. in the case. (“[District Court: Eighth Circuit 'Would Adopt' Pro-Fiduciary Presumption of Prejudice](#),” March 26, 2014; “[SunEdison Ditches Retirement Plan Stock Value Suit](#),” March 24, 2014)

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