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## Ex-Contractors Sue Xe For \$60M Over Denied Benefits



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### Case Information

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#### Case Title

[MERCADANTE et al v. XE SERVICES, LLC et al](#)

#### Court

[District Of Columbia](#)

#### Nature of Suit

[Labor: E.R.I.S.A.](#)

#### Case Number

[1:11-cv-01044](#)

#### Judge

[Colleen Kollar-Kotelly](#)

#### Date Filed

[June 6, 2011](#)

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Law360, New York (June 7, 2011) -- Security company Xe Services LLC was targeted in a \$60 million putative class action in Washington on Monday by former specialists who claim they were misclassified as independent contractors rather than employees and denied benefits.

Monday's complaint names Xe — formerly known as Blackwater Worldwide — as well as U.S. Training Center Inc., Blackwater Security Consulting LLC and Blackwater Trust & Plan Trustees as defendants. The plaintiffs contend they should have been classified as employees and thus been beneficiaries of the defendants' health, pension disability and welfare plans.

But the defendants allegedly failed to provide the four named plaintiffs, who worked for the companies as security contractors in Iraq and Afghanistan, with retirement and other benefits that other employees received, and forced them to pay taxes under the Federal Insurance Contributions Act and other state withholding for unemployment and [disability insurance](#).

"I believe that these individuals whom I represent (and those similarly situated) risked their lives to protect many dignitaries, including the president," said Scott Bloch, an attorney for the plaintiffs. "In exchange, they deserve to be treated better than they were."

The suit wants the court to force the defendants to pay their payroll taxes and arrears for benefits under their health, welfare, disability and pension plans. It also seeks declaratory judgment that the plaintiffs were misclassified as independent contractors as well as \$20 million for noneconomic damages and punitive damages of \$40 million.

The \$60 million figure represents a minimal amount of assumed damages and the plaintiffs will be seeking more than that, Bloch said.

The suit aims to return them to the position they would have occupied had they been properly classified as employees, Bloch said, adding that many of the roughly 3,000 people who would be covered by the class were left injured and without [health insurance](#).

The proposed class would be comprised of individuals who worked as independent contractors for the defendants in Iraq, Afghanistan and other foreign countries, and who are or should be beneficiaries of the defendants' health, pension disability and welfare plans.

The plaintiffs had to sign independent contractor agreements that placed responsibility for covering withholding or other payroll taxes onto the worker, according to the complaint.

"Defendants breached the covenant of good faith and fair dealing implicit in every contract with plaintiffs and those similarly situated," the complaint said.

The complaint levels claims for injunctive relief, express and implied breach of contract, intentional and negligent misrepresentation and fraud, and breach of fiduciary duty under the Employee [Retirement Income](#) Security Act.

A spokesman for Xe declined to comment on the suit Tuesday.

The plaintiffs are represented in this suit by Scott Bloch of the Law Offices of Scott J. Bloch PA.

Counsel information for the defendants was not immediately available.

The case is Mercadante et al. v. Xe Services LLC et al., case number 1:11-cv-01044, in the U.S. District Court for the District of Columbia.

--Editing by Andrew Park.