

Federal District Court Dismisses Pension Actuarial-Equivalence Lawsuit

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A federal district court recently handed plan sponsors their first victory in a string of actuarial equivalence lawsuits filed against large defined benefit pension plans. Although the decision is a positive development for plan sponsors, with many similar class action lawsuits pending, it will not be the final word on the issue.

IN DEPTH

Background

Since late last year, plaintiffs' firms have filed lawsuits against nine large pension plan sponsors alleging that the actuarial factors that each used to calculate benefits are outdated and inherently unreasonable. The plaintiffs contend that the outdated and unreasonable factors cause participants to receive smaller benefits than what they are entitled to receive under the Employee Retirement Income Security Act of 1974 (ERISA).

Defendants in each of these large lawsuits have filed motions to dismiss on various

grounds. The first two courts to decide such motions ruled for the plaintiffs, determining that the lawsuits sufficiently alleged, at the pleading stage, that the plans may have used unreasonable assumptions and violated ERISA. But, a federal district court recently handed plan sponsors—and Pepsi—their first victory, by dismissing the plaintiffs' claims.

Discussion

The court's decision in *DeBuske , et al. v. Pepsico, Inc., et al.* is a positive development for plan sponsors. However, the *DeBuske* court based its decision on a narrow statutory interpretation of ERISA that may not extend to other cases. In *DeBuske*, the plaintiffs specifically alleged that the actuarial factors used by the plan to convert benefits from a single life annuity to an optional form of payment were unreasonable and outdated, resulting in smaller benefits. As a result, the plaintiffs argued that use of such factors violated the anti-forfeiture rule under ERISA, which prohibits forfeiture of "normal retirement benefits" payable at a participant's "normal retirement age." However, the plaintiffs did not allege that they retired at or after normal retirement age. Because the plaintiffs' complaint did not focus on the amount they might receive at normal retirement age, the *DeBuske* court concluded that the plaintiffs failed to allege a violation of ERISA's anti-forfeiture rule and dismissed the complaint.

McDermott Thoughts

The *DeBuske* decision will not be the final word on pension plan actuarial equivalence lawsuits. There are many similar class actions pending on this issue, and the *DeBuske* decision addressed a fairly narrow question that may have limited application to other actuarial equivalence lawsuits. In addition, the *DeBuske* plaintiffs likely will appeal the district court's decision.

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