

PwC Inks \$267 Million Class Deal in Long-Running Pension Lawsuit

Sept. 20, 2022, 8:37 AM EDT

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- Deal is largest ever struck in pension ‘whipsaw’ case
- Thousands of retirees to get average payouts of \$11,000

PricewaterhouseCoopers LLP will pay \$267 million to settle a 16-year-old class action by retirees seeking higher pension benefits and challenging various aspects of the company’s pension plan, according to a filing in the Southern District of New York.

The deal, which is expected to pay an average of about \$11,000 to each of 16,000 former participants in the PwC plan, is the largest recovery ever achieved in an Employee Retirement Income Security Act case challenging a pension calculation known as a “whipsaw,” plaintiff Timothy D. Laurent said in a settlement motion filed Monday. It also represents a recovery of “virtually 100%” of the benefits plaintiffs would be owed if they won their case in court, Laurent said.

The PwC retirees’ suit challenged various aspects of their pension plan, including its stated retirement age and the interest rate used to calculate certain distributions. In particular, they claim PwC shorted their benefits by using faulty interest rates and normal retirement dates when performing whipsaw calculations, in which the value of workers’ pension benefits are projected forward to retirement age and then backward to the time of distribution.

Prior decisions established that the plan violated ERISA, but Judge J. Paul Oetken nevertheless ruled for PwC in 2017 after finding the statute didn’t give the retirees an avenue to remedy the violation.

The US Court of Appeals for the Second Circuit disagreed, holding in 2019 that ERISA authorizes courts to rewrite plan terms to correct statutory violations that aren’t rooted in fraud. After failing to obtain US Supreme Court review of this decision, PwC argued on remand that the “two step” ERISA remedy authorized by the Second Circuit—under which a court can reform a benefit plan document and then enforce the terms of the reformed plan—meant the case could no longer be resolved as a class action.

Oetken disagreed last year, denying PwC’s motion to decertify the class and awarding the retirees summary judgment as to liability. However, he declined to adopt the retirees’ proposed method for calculating the amount owed and instead instructed the parties to come up with a plan for litigating the case’s remaining issues.

The retirees are represented by Gottesdiener Law Firm PLLC, which stands to receive up to \$89 million in attorneys’ fees if the deal is approved.

Gibson, Dunn & Crutcher LLP represents PwC.

The case is Laurent v. PricewaterhouseCoopers LLP, S.D.N.Y., No. 1:06-cv-02280, motion for preliminary settlement approval 9/19/22.