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6 December Argument Sessions Benefits Attys Should Watch

By **Kellie Mejdrih**

Law360 (November 26, 2025, 11:17 AM EST) -- Workers who say Prudential mismanaged their retirement savings will ask the Third Circuit to reinstate their class action, while a union pension fund will ask the Eighth Circuit to put General Electric back on the hook for a \$230 million in pension withdrawal liability.

Here's more on those and four other upcoming oral argument sessions benefits attorneys should have on their radar.

Hilton Retirement Suit Returns to D.C. Circ.

A decades-old dispute over Hilton retiree pension accruals is back at the D.C. Circuit, with a certified class again seeking to revive a bid for post-judgment discovery in a pension underpayment fight after the appellate court in 2022 reversed an earlier order dismissing their Employee Retirement Income Security Act suit.

A three-judge panel has scheduled arguments for Dec. 8 in the appeal from ex-Hilton Hotel & Resorts workers who alleged in 1998 that the hotel chain lowballed their pension payments by failing to properly accrue benefits to their accounts.

The retiree class argues on appeal that a D.C. federal court isn't complying on remand with the appellate court's **previous judgment from 2022**, which found the district court erred in reasoning the case couldn't be reopened because it lacked jurisdiction to enforce an injunction ordering payments from 2011.

Hilton, meanwhile, argues that the case should have ended long ago and that the lower court in March 2025 **rightly rejected** an attempt to reopen discovery in the ERISA class action after judgment had already been entered in the case.

The case is *Jamal Kifafi v. Hilton Hotels Retirement Plan et al.*, case number 25-7053, in the U.S. Court of Appeals for the D.C. Circuit.

W.Va. Trans Health Fight Back at 4th Circ.

West Virginia Medicaid patients will ask the Fourth Circuit to affirm their trial court win in a suit alleging a ban on gender-affirming care in the state's Medicaid program ran afoul of the 14th Amendment's equal protection clause in the U.S. Constitution as well as federal nondiscrimination laws.

Arguments before a three-judge panel have been scheduled for Dec. 9 in the appeal from the state of West Virginia, which seeks to overturn an **August 2022 summary judgment win** for a class of more than 600 transgender participants in the state's low-income health program.

The U.S. Supreme Court in June **struck down** a previous appellate court ruling from April 2024 that **had favored the health participant class**. Justices vacated that split en banc decision and remanded the case for a redo on appeal in light of justices' **June decision to uphold a**

Tennessee law limiting treatments for young transgender people.

In addition to filing supplemental briefs with the Fourth Circuit on remand from the high court, parties have engaged in considerable supplemental authority briefing in recent months, as district courts process various challenges to federal and state laws involving access to gender-affirming care. For example, parties have filed supplemental authority briefing on a Mississippi federal judge's decision from October to **enjoin a Biden-era policy** that protected gender-affirming care under the Affordable Care Act.

The case is Shauntae Anderson v. William Crouch, case number 22-1927, in the U.S. Court of Appeals for the Fourth Circuit.

CONSOL Retirees Bring Lifetime Health Coverage Fight to 4th Circ.

A group of coal companies will ask the Fourth Circuit to dismantle a West Virginia trial court win for two retired nonunion workers from 2024 that ordered the companies to pay their retiree health benefits for life.

Arguments are scheduled on Dec. 10 in the dual-sided appeal from CONSOL Energy LLC, its related companies, and several CONSOL retirees, including the two individual ex-workers that won relief in the proposed ERISA class action, Clarence Bright and Terry Prater.

Bright, Prater, and other nonunion CONSOL retirees argue on appeal that the lower court should have certified their ERISA claims as a class instead of ordering relief for just two retirees. The lower court ordered the companies to provide medical coverage to the retired workers for the rest of their lives, via a reformation of their benefit plans.

Retirees sued on behalf of a proposed class in 2017, arguing CONSOL and its related companies breached their fiduciary duty by misrepresenting the terms of miners' retiree health benefits.

The case is Emmett Casey Jr. v. CONSOL Energy Inc., case numbers 24-2105 and 24-2106, in the U.S. Court of Appeals for the Fourth Circuit.

Prudential 401(k) Investment Suit Heads to 3rd Circ.

A class of participants in a 401(k) plan for employees of Prudential Insurance Co. of America will ask the Third Circuit to overturn the insurance company's early win in a suit alleging a retirement plan was drained of millions in future savings because of poorly performing investment offerings.

A three-judge panel is expected to hear arguments Dec. 11 in the appeal from Prudential employee 401(k) plan participants, who were certified as a class **in August 2023**.

The 401(k) participants appealed after a New Jersey federal court handed Prudential a summary judgment win in the case nearly a year ago, concluding that the overall management process that the insurance company employed in managing the plan complied with ERISA.

Prudential argues on appeal that the Third Circuit should affirm its win, given ample evidence of a fiduciary process that exceeded ERISA standards, including by providing documentation of regular meetings of its investment committee.

The proposed class of retirement plan participants meanwhile argued in a brief filed in April that the lower court erred in its **2024 summary judgment decision**, because parties disputed whether the process used to manage the plan complied with ERISA's fiduciary duty of prudence.

"The district court found a panacea in the basic components that characterize any fiduciary process, which say little about the quality (let alone prudence) of the resulting procedures and methods employed by appellees," the workers said in the brief.

The case is Young Cho v. Prudential Insurance Co. of America et al., case number 25-1134, in the U.S. Court of Appeals for the Third Circuit.

6th Circ. Eyes Venue Battle over Ohio's PBM Antitrust Suit

Pharmacy benefit managers will ask the Sixth Circuit to keep in federal court the state of Ohio's lawsuit accusing the companies of violating antitrust law by colluding to raise the cost of prescription drugs, which a lower court remanded to state court in 2024.

An argument date is set for Dec. 11 in the appeal from Ohio and its attorney general Dave Yost against Express Scripts and Prime Therapeutics.

While the dispute doesn't directly involve a benefit plan, the case is on ERISA practitioners' radar because of the potential impact of legal developments involving PBMs, which are companies that act as intermediaries between insurers, drugmakers and pharmacies.

The case was also **paused for about a year** while the Supreme Court considered a case involving state-federal jurisdiction in [Royal Canin U.S.A. Inc. v. Wullschleger](#). In that case, justices held that once a plaintiff amends their complaint to eliminate any federal question, the matter must be remanded to state court. But parties ultimately agreed once the appeal was resolved that the justices' decision wasn't dispositive to their appeal, according to a joint status report that the PBMs quoted in an appellate brief.

Ohio's state-level allegations are similar to those the Federal Trade Commission has brought in a case accusing CVS' Caremark, Cigna's Express Scripts and UnitedHealth's OptumRx of artificially inflating insulin prices by relying on unfair rebate schemes. That case is on appeal before the Eighth Circuit, where a panel **held arguments earlier in November** on restarting the dispute.

On appeal before the Sixth Circuit, the **PBMs argue** that their work related to federal contracts give an appropriate nexus to keep the dispute in district court.

Anne Tyler Hall, founder and managing partner at Hall Benefits Law, said she's keeping an eye on the case, because a decision to uphold a state court remand could spur other state lawsuits, or pressure PBMs to disclose rebates.

"It would be a key win for state sovereignty as it relates to PBMs and lack of transparency," Hall said.

On the other hand, a Sixth Circuit decision to reverse the lower court could "shield vertically integrated PBM behemoths ... and expose self-insured plan fiduciaries to ERISA fiduciary breach challenges if, for example, rebates are not fully disclosed and paid to employers," she said.

"As a protective measure and as prevention to skyrocketing health costs, this case reinforces the urgency of ERISA fiduciaries to carefully review and negotiate PBM contracts with a particular focus on PBM fee transparency and removal of any gag clauses that preclude pharmacy pricing discussions," Hall said.

The suit is Ohio ex rel. Dave Yost v. Ascent Health Services LLC et al., case number 24-3033, in the U.S. Court of Appeals for the Sixth Circuit.

GE Union Fund Fighting \$230M Win at 8th Circ.

A union pension fund hopes to convince the Eighth Circuit that GE owes \$230 million for withdrawing from a multiemployer pension fund, arguing the aerospace manufacturing company painted an exaggerated picture of its employment situation to clinch a building and construction industry exemption.

Arguments are scheduled Dec. 17 before a three-judge panel in the appeal from the Boilermaker-Blacksmith National Pension Trust, **seeking to overturn** a decision from U.S. District Judge Brian C. Wimes in February that handed GE summary judgment in the consolidated ERISA dispute.

Judge Wimes' decision enforced an arbitration award favoring GE's interpretation of how the

Multiemployer Pension Plan Amendments Act's building and construction industry exemption applied, from December 2023. The arbitrator's award is what kicked off the dispute in federal court, with separate complaints from both GE and the union now consolidated.

The parties dispute how to count construction industry workers in relation to the rest of their employees for the purpose of determining whether the industry exemption applies.

Katie Barrett Wiik, a litigation partner at Saul Ewing LLP who serves as co-chair of the firm's appellate practice group, said she's keeping an eye on the Eighth Circuit appeal.

"Both unions and employers with ERISA obligations should be watching the case closely," she said. "The Eighth Circuit faces an issue of first impression relating to ERISA withdrawal liability and the building and construction industry exemption. The parties and their experts advance different arguments about the proper methodology that courts within this circuit should use to determine an employer's headcount."

The case is *General Electric Co. v. Boilermaker-Blacksmith National Pension Trust*, case number 25-1442, in the U.S. Court of Appeals for the Eighth Circuit.

--Editing by Amy Rowe and Nick Petrucio.