


Plaintiff Lawyers Are Winning ERISA Cases, Causing Litigation to Soar

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(l-r) Charles Field of Sanford Heisler, Anne Green of Saul Ewing, and Gerald L. Maatman, Jr. of Duane Morris. Courtesy photos

The high probability of success for plaintiff-side lawyers is generating rapid growth in employee benefits litigation.

Almost every proposed class action under the Employee Retirement Income Security Act, or ERISA, won certification last year.

And that makes it less risky for plaintiff lawyers to take these cases to court—and settle long before trial.

"Of all the areas where the plaintiff's bar is filing class actions, they're having the most success in the ERISA space," said Gerald L. Maatman Jr. of Duane Morris in Chicago, chair of the firm's class action defense team.

'The Holy Grail'

Law.com Radar reported 90 ERISA class action suits filed in 2025—a leap from the 65 filed in 2024 and 39 in 2023.

And the trend is continuing this year.

For instance, Bloomberg reported 68 ERISA class actions filed in the first quarter of 2026—nearly double the 38 filed during the same period in 2025, and soaring past the 26 filings in the comparable time in 2024.

A key factor in that growth is a high rate of class certification.

For instance, Duane Morris reports that 95% of motions for class certification in ERISA cases were granted in 2025, up from 67% in 2024 and 82% in 2023.

Data breach class actions had a 33% certification rate in 2025, and the number was 50% for discrimination cases and 40% for consumer fraud, Duane Morris' Maatman said.

ERISA cases tend to have a high rate of typicality and commonality, which are valued in the class action world, Maatman said.

And once a case is certified, it usually settles, Maatman said.

"Given that certifying your case is the holy grail, it allows you to then settle," he added. "It explains the migration, to me, of very talented plaintiff lawyers really looking at the ERISA space, and then that would explain why more ERISA cases are being filed, because that's a very successful area."

Hundreds of Millions in Settlements

In addition, plaintiff lawyers are reaping hefty settlements of ERISA suits.

Maatman says the top 10 ERISA settlements in 2025 amounted to \$680 million, compared to \$413 million in 2024.

And the case law gives plaintiff counsel a high probability of getting certified in high-dollar litigation.

"And when you throw all those things in the hopper, it explains why in 2026 more ERISA class actions are being filed as compared to past years. In essence, success begets copycats. Lots of lawyers are looking at the ERISA space," Maatman said.

ERISA suits take on a variety of subjects, including the manner in which employers handle forfeited money in 401(K) plans and performance of so-called target date funds and stable value funds, as well as allegations of excessive fees charged.

Defenses

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Another category behind the surge in ERISA filings is a jump in suits against employers charging tobacco users more for health insurance. Such terms are generally lawful, but employees generally argue their employer improperly implemented the plan.

"You've got to realize that the world's changing, and you have to adapt to this new world. And so you're trying out new defenses," Maatman said. "You're trying to stretch the arbitration defense with a class action waiver into the ERISA space. And so you're seeing success by defense firms in doing that. So it's not like defense lawyers are asleep at the wheel. And so you're seeing very creative lawyering on both sides of the v in this new, wild, wild west of ERISA litigation."

Maatman said for the defense, spending on compliance is a wise investment, and that defending ERISA cases takes creativity and thinking outside the box.

Anne Greene of Saul Ewing in Pittsburgh agrees.

Greene, who counsels clients on ERISA matters, found the uptick in litigation has brought a corresponding increase in requests from plan sponsors seeking legal advice to stay out of trouble.

Like Maatman, Greene cites the role of new and inventive causes of action in driving the current uptick in ERISA suits.

For instance, she cites *Barbich v. Northwestern University*, filed last year in the Northern District of Illinois.

That case alleged Northwestern breached its fiduciary duties by mismanaging its employee group health plan, specifically by offering a high-cost health option that provided no better benefits than lower-cost options.

ERISA litigation often focuses on plan fiduciaries who were not paying attention to what was going on, and the processes they use, or lack of process, Greene said.

"ERISA doesn't say that every investment has to be a winner. It just says that it has to be sound. So we're always focused on the process to help protect that plan sponsor," Greene said.

Positive Effect?

Meanwhile, a plaintiff lawyer who helped fuel the trend said it has a positive impact.

Charles Field of Sanford Heisler Sharp McKnight has a role in the ERISA litigation boom: He helped obtain a record-setting \$69 million settlement in 2025 in an ERISA case in Minnesota called *Snyder v. UnitedHealth Group*.

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That suit alleged the company breached its fiduciary duties by keeping poorly performing Wells Fargo target-date funds in its 401(k) plan to protect a business relationship. It also claimed this cost employees hundreds of millions in potential gains.

Field was also part of the team that won a \$61 million settlement in another ERISA case, *In Re G.E. ERISA Litigation*, in Massachusetts in 2024.

His firm said the settlement is believed to be the largest in an ERISA case stemming from allegations that a corporation's 401(k) plan improperly directed employees to invest in its own, underperforming, proprietary funds.

Field worked in institutional money management for 25 years before leaving to form a practice at Sanford Heisler assisting clients with their retirement plans. He said in his 10 years at Sanford Heisler, he became increasingly aware that poorly performing investments could derail a client's retirement.

He's also only filed about 10 to 15 suits in the past decade, which suggests that poorly-performing funds are "not as prevalent as as you would think," Field said.

His experience filing ERISA suits has shown Field that this litigation is worthwhile.

"The purpose that I wanted to fulfill is that I wanted to bring about a positive change to the way that fiduciaries manage these plans. And over the years—10 years—I have actually seen an improvement in the quality of the plans and the fiduciary attention to how they manage. So it's had a positive effect," Field said.

Fields thinks the recent surge in ERISA litigation has pushed fiduciaries to do a better job.

"There have been some successes. I don't know if it's the success of others that have caused people to jump in, or has the legal profession caught up with fiduciaries who are not doing their job," he said. "And if fiduciaries would just do what they're supposed to do, pay attention to the investments in the plan, pay careful attention to the performance and to the fees and do their own research, it'd be fine. But what you see is that the fiduciaries, some fiduciaries, just go through the motions. But if they were to take this very seriously and investigate the way they're supposed to, there wouldn't be an issue."