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Latest actuarial equivalence lawsuit hands win to sponsor

By Margaret Berger and Brian J. Kearney
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The latest court decision in the wave of actuarial equivalence lawsuits against defined benefit plan sponsors gave a clear win to the employer. In *Berkeley vs. Intel,* a district court in California awarded summary judgment to Intel, ruling that ERISA does not impose a reasonableness requirement on actuarial assumptions used to calculate retirement benefits. This ruling comes on the heels of a recent appellate court decision that reached the opposite conclusion — but that court has recently indicated it may reconsider the ruling.

Overview. The lawsuit challenges the mortality table and interest rate used to convert participants' accrued benefits to joint and survivor annuities. The plaintiffs allege the assumptions are outdated and that participants' annuity payments are smaller than they would be if more current mortality tables and interest rates were used. The company argued that actuarial equivalence is simply a mathematical principle equating two items under a given set of assumptions, with no requirement — explicit or implicit — that the assumptions be reasonable.

Ruling. In ruling for the defendants, the judge noted that the parties didn't dispute whether the actuarial assumptions were reasonable when the plan was created. Instead, the relevant question was whether ERISA requires sponsors to "fulfill an *ongoing* obligation to ensure that actuarial assumptions remain 'reasonable' over time." Despite acknowledging that courts across the country are split on the issue, the judge said nothing in ERISA's statutory text, Congressional intent, or Department of Treasury regulations imposes a reasonableness requirement.

Circuit Court may reconsider contrary decision. On March 16, a three-judge panel in the 6th Circuit Court of Appeals reached the opposite conclusion (*Reichert, et al., v. Kellogg Co.*; *Watt, et al.,*

v. FedEx Corp.), ruling that ERISA requires the use of reasonable actuarial assumptions for these purposes. (The judge in *Berkeley* acknowledged the 6th Circuit ruling but was not bound by it because California is in a different circuit.) On March 30, the employers filed a petition for an *en banc* rehearing — an exceptional circumstance where the case is reconsidered by all the active judges on a circuit court. Though these petitions are routinely denied, in this case the plaintiffs received letters directing them to respond to the petition. This indicates that the court is seriously considering the request.

Outlook. The lawsuit is part of a spate of dozens of actions that have been filed since December 2018 making similar claims. The ruling — one of the few on the merits in these cases — is not the final word on whether ERISA requires actuarial assumptions to be reasonable. The 6th Circuit Court will likely not decide whether to revisit its ruling in *Reichert* for several months. The same week the 6th Circuit issued that decision, a district court in Missouri dismissed another case (*Landel v. Olin Corp., et al.*), saying that ERISA doesn't require assumptions to be reasonable. The plaintiffs in that case filed an appeal on April 17. The majority of the remaining cases have settled or are in mediation. To date, none of the cases have gone to trial.

Related resources

Non-Mercer resources

- *Berkeley v. Intel Corp.,* No. 5:23-cv-00343-EJD (N.D. Cal. April 8, 2026)
- *Reichert, et al., v. Kellogg Co.; Watt, et al., v. FedEx Corp.,* No. 24-1442 (6th Cir. March 16, 2026)

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- 6th Circuit allows two actuarial equivalence lawsuits to proceed (April 1, 2026)

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