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4 Big ERISA Litigation Developments From 2025's 2nd Half

By **Kellie Mejdrich**

Law360 (December 12, 2025, 2:41 PM EST) -- The Eleventh Circuit signaled it may be willing to change its precedent to make it easier for federal benefits lawsuits to get to the courthouse door, while the Second Circuit shut down a challenge to a union pension plan's private equity investment emphasis.

Here's a look back at these and two other significant Employee Retirement Income Security Act litigation developments from the latter half of 2025 that benefits attorneys should have on their radar.

11th Circ. Hints at ERISA Exhaustion Rule Repeal

Benefits attorneys highlighted the Eleventh Circuit's decision backing the dismissal of a proposed class action alleging mismanagement of a seafood company's employee stock ownership plan, noting that the decision opens the door to the full appellate court repealing its strict standard requiring claimants to pursue administrative remedies before suing in federal court.

In a unanimous published decision Oct. 15, a three-judge panel **affirmed and remanded** a decision from 2023 **that had tossed** the proposed ERISA class action against Inland Fresh Seafood Corp. of America Inc. and an individual ESOP trustee. The suit was brought by Inland Fresh ESOP participants.

A key aspect of the decision was that it was written by a district judge sitting by designation, while the panel's two appellate judges in a concurrence urged the full court to reconsider the case en banc and overturn its strictest-in-the-nation standard on administrative exhaustion. The Eleventh Circuit's requirement, established in 1985 in Mason v. Continental Group, requires that all ERISA claims first be taken up via internal processes before workers sue in federal court.

William Delany, a principal and litigation co-chair at Groom Law Group and an employer-side benefits attorney, said the Inland Fresh decision from the Eleventh Circuit was "an interesting one," adding that he's watching to see if the full Eleventh Circuit takes up the case.

Delany added that a change in the Eleventh Circuit's standard could ultimately impact "the amount of input that a plan administrator has over people that are challenging the operation of the benefit plan that the employer voluntarily bestowed on its workforce."

Carl Engstrom, founding partner at Engstrom Lee LLC and a plaintiff-side attorney, said the Eleventh Circuit case also has the potential to impact his practice, and he is watching to see how the case turns out on potential en banc review.

"Administrative claims processes are a significant part of the statutory scheme and a significant part of ERISA today," Engstrom said, adding, "and yet, very little attention is paid to those processes."

Engstrom described the Eleventh Circuit appeal as a challenge to "the last holdout from the most conservative circuit" on administrative exhaustion.

The case is Bolton et al. v. Inland Fresh Seafood Corp. of America Inc. et al., case number 24-10084, in the U.S. Court of Appeals for the Eleventh Circuit.

2nd Circ. Backs Toss of NY Teamsters' Pension Suit

Attorneys also took notice of the Second Circuit's decision affirming the dismissal of a proposed class action challenging a New York Teamsters pension plan's fees and private equity investing emphasis, particularly in light of a **recent crop of new ERISA challenges** to employers' use of private equity-linked insurance providers.

In an **unpublished summary order** Nov. 21, a three judge panel affirmed the dismissal of the ERISA challenge from Teamsters worker Robert Carlisle.

Carlisle filed suit in October 2020, alleging violations of ERISA against the trustees of the New York State Teamsters Conference Pension & Retirement Fund; the fund's investment manager, Meketa Investment Group Inc.; and the plan's actuary, Horizon Actuarial Services LLC. Carlisle claimed that Meketa and Horizon made poor decisions about handling retirees' money and that the union trustees went along with them. That resulted in the plan making risky investment decisions, including by putting considerable funds into private market investments, and incurring plan management fees that were overly high, Carlisle said.

But the panel threw out arguments on appeal that the lower court erred in tossing the case permanently, holding that, at most, an emphasis on private equity described in the pleadings was still in line with ERISA even if plan assets were more concentrated in higher-risk investments than peer plans.

Carol Buckmann, founding partner at Cohen & Buckmann PC and an employer-side benefits attorney, said the case "indicates that challenging private equity investments may not be the 'slam dunk' that many plaintiffs lawyers have assumed it would be."

Buckmann said the panel held that private equity investments weren't inherently suspect or improper. She also highlighted the panel's citation of the U.S. Supreme Court's 2022 decision in Hughes v. Northwestern University , written by Justice Sonia Sotomayor, when it noted that a range of decisions can be prudent when managing a plan.

"Fiduciaries who engage in an appropriate process, even if it involves 'trade-offs,' can prevail because there is no one right way to invest," Buckmann said.

Engstrom of Engstrom Lee also took note of the Second Circuit's decision, though he pointed out that its scope was limited by the fact that it was unpublished.

Engstrom compared the decision to the Ninth Circuit's ruling in May in Anderson v. Intel Corp. Inv. Policy Comm. , where the appellate court threw out challenges to Intel's private equity and hedge fund retirement plan investing emphasis.

"I think that this goes to the biggest switch in the courts that has occurred, really, over the past 50 years," Engstrom said, where courts are showing greater aversion to weighing in on individual plans' investment choices.

Engstrom added that courts' greater focus on a facts-and-circumstances analysis of a plan's management process to sort through ERISA allegations of imprudent investment choices makes it harder for challenges like Carlisle's to get a foothold.

"I think attempts to sort of take entire areas of investment, like private equity funds or hedge funds ... are kind of doomed for the reason that it's so context-dependent," Engstrom said.

J.J. Conway of J.J. Conway Law, a longtime ERISA practitioner and plaintiff-side attorney, took note of a potentially worker-friendly aspect of the decision: that the panel held that workers had standing to sue over pension plan investments despite the Supreme Court's 2020 decision in Thole v. US Bank . In that case, the justices ruled that retirees lacked standing to sue over allegations of pension plan mismanagement because their monthly payments weren't affected.

"Thole has been a nightmare for many practitioners," Conway said. "Carlisle is a significant reading of Thole finding that harm to a plan is, by extension, harm to a participant for Article III purposes. But I wouldn't pop the Champagne yet."

The case is Carlisle v. The Board of Trustees of the American Federation of the New York State Teamsters Conference Pension and Retirement Fund, case number 25-511, in the U.S. Court of Appeals for the Second Circuit.

DOL Drops 5th Circ. Fiduciary Rule Appeals

Multiple benefits attorneys highlighted a major litigation development from the U.S. Department of Labor, which decided in November to back off two appeals in the Fifth Circuit that sought to preserve investment advice regulations from April 2024 **expanding the definition** of an ERISA investment advice fiduciary.

The DOL requested **dismissal of its appeals** Nov. 24, telling the Fifth Circuit it no longer wished to overturn the **decisions of two Texas federal courts** to block the Biden-era regulations, which expanded the ERISA fiduciary definition to include many rollover transactions. The appellate court had previously held the combined appeals in abeyance at the DOL's request following the changeover of executive branch administrations in January 2025.

The DOL has also said in briefing that it plans to issue new rulemaking related to the fiduciary issue, but absent further action, the decision leaves in place court orders knocking out the other rules.

Andrew Oringer, partner and general counsel at The Wagner Law Group and an employer-side benefits attorney, took note of the appellate action.

"From an ERISA perspective, it has historic implications," Oringer said. "The question of who's a fiduciary is central to the ERISA regulatory scheme."

Lisa Tavares, partner and co-chair of Venable LLP's business division who specializes in advising employers on ERISA, also took note of the DOL's appellate action.

"That's technically a change in the guidance," Tavares said.

She also likened the development to a "change in enforcement position" and said she's been advising plan sponsors to heed the change.

"I think plan sponsors have to take all of these signals into place when they're considering what their decisions are," Tavares said. "But at the same time, a fiduciary, I think, needs to be mindful, and I think we don't want to be swinging back and forth just in terms of investment decision-making in a plan. They should be still using the reasonable man standard."

Attorneys added that beyond the appeals, they're also keeping an eye on the district dockets that are still active now that the DOL's Fifth Circuit effort has been dropped.

The appellate cases are Federation of Americans for Consumer Choice Inc. v. LABR and American Council v. LABR, case numbers 24-40637 and 24-10890, in the U.S. Court of Appeals for the Fifth Circuit. The district cases are American Council of Life Insurers et al. v. U.S. Department of Labor et al., case number 4:24-cv-00482, in the U.S. District Court for the Northern District of Texas, and Federation of Americans for Consumer Choice Inc. et al. v. U.S. Department of Labor et al., case number 6:24-cv-00163, in the U.S. District Court for the Eastern District of Texas.

Wells Fargo Escapes 401(k) Forfeiture Suit

A Minnesota federal judge's decision to grant Wells Fargo an escape from a proposed class action alleging it misallocated employee 401(k) forfeitures grabbed ERISA practitioners' attention, partly because of the numerous district-level dismissals that followed the ruling.

U.S. District Judge John R. Tunheim granted Wells Fargo & Co.'s motion to dismiss Thomas Matula Jr.'s ERISA lawsuit in an order dated June 18, concluding that Matula **hadn't demonstrated standing to sue** over the company's spending decision because he couldn't show he was harmed.

Matula filed suit on behalf of a proposed class of employee 401(k) plan participants in June 2024, challenging Wells Fargo's decision to use forfeited plan assets to lower its contribution obligations instead of lowering fees planwide. Forfeitures typically result from employees who leave the company before their employer contributions fully vest. But Judge Tunheim ruled that Matula couldn't show harm from Wells Fargo not allocating forfeitures to fees.

After the Wells Fargo toss, several other employers escaped similar proposed class action claims, **including marketing company** WPP Group USA Inc. on Oct. 24, **a Coca-Cola bottler** in the Southwest on Nov. 13 and **aerospace and defense company** Northrop Grumman on Dec. 4.

Buckmann of Cohen & Buckmann highlighted the Wells Fargo decision as a significant ruling in ERISA litigation in the past six months.

She was also broadly critical of 401(k) forfeiture litigation generally, calling the suits "claims that were created out of nothing."

"To me, it's an example of how ERISA litigation has really gotten out of control in some ways," she said, also taking note of how the Wells Fargo decision is now on appeal at the Eighth Circuit.

"Plaintiffs aren't giving up," Buckmann added.

The district case is Matula v. Wells Fargo & Co. et al., case number 0:24-cv-03703, in the U.S. District Court for the District of Minnesota. The appeal is Thomas Matula Jr. v. Wells Fargo & Co. et al., case number 25-2441, in the U.S. Court of Appeals for the Eighth Circuit.

--Editing by Abbie Sarfo and Emma Brauer.