

Publications

Asset Purchaser May Have Successor Liability for Multiemployer Plan Contributions

PUBLISHED

01/31/2011

SERVICES

In *Einhorn v. M.L. Ruberton Construction Co.*, No. 09-4204, 2011 U.S. App. LEXIS 1171 (3d Cir. 2011), the U.S. Court of Appeals for the Third Circuit reversed a lower court ruling and held that a purchaser of the assets of an employer obligated to contribute to a multiemployer benefit plan may, under certain circumstances, be held liable for the seller's delinquent contributions to that plan.

In reaching this conclusion, the Third Circuit followed the reasoning in *Upholsterers' International Union Pension Fund v. Artistic Furniture of Pontiac*, 920 F.2d 1323 (7th Cir. 1990). *Einhorn* creates legal uncertainty for a purchaser who does not want to assume a seller's pension plan obligations as part of an asset sale. Please see the attached memo for further details.

[Asset Purchaser May Have Successor Liability for Multiemployer Plan ContributionsDownload](#)