

5 Big ERISA Litigation Developments From 2026's First Half

By **Kellie Mejdrich**

Law360 (June 18, 2026, 3:45 PM EDT) -- The U.S. Supreme Court's acceptance of a petition challenging Intel's 401(k) investment lineup and a Fourth Circuit ruling unraveling a class of Genworth Financial retirement plan participants headlined the court developments that caught benefits attorneys' attention in the first six months of 2026.

Here's a look at those and three other noteworthy Employee Retirement Income Security Act decisions.

Supreme Court Takes Up Intel 401(k) Fund Fight

Justices' decision to take up two ex-workers' challenge to technology company Intel Corp.'s employee 401(k) investment lineup has the potential to reshape the broader pleading standard for class actions that allege a retirement plan investment option breached ERISA's fiduciary duty of prudence, attorneys say.

The Supreme Court on Jan. 16 **granted a petition** for a writ of certiorari from the proposed class of Intel 401(k) participants, led by ex-workers Christopher Sulyma and Winston Anderson. Sulyma filed suit in 2015 and Anderson in 2019 and their disputes were later consolidated, alleging Intel breached its ERISA fiduciary duties of prudence and loyalty by offering a suite of underperforming proprietary target-date and balanced funds in workers' two 401(k) plans that included investments in private equity and hedge funds. Target-date funds typically adjust their risk profile based on proximity to retirement, allocating greater risk for younger investors. Balanced funds typically contain proportions of different assets such as stocks and bonds.

Ex-workers **petitioned justices for review** after the Ninth Circuit in May 2025 **affirmed dismissal** of claims in the ex-workers' proposed class action for failure to state a claim, which a California federal court had **handed down** in January 2022.

The ex-workers argue in their petition that the Ninth Circuit imposed too strict a standard by requiring them to identify similar funds for comparison — known as a meaningful benchmark — to state a breach of prudence claim.

Caroline Wong, a management-side partner at Sidley Austin LLP, took note of the case on petition to the Supreme Court as a critical development for ERISA litigation.

"The parties have focused on custom target-date funds and custom diversified funds that are at issue in that case specifically, but obviously, a decision from the Supreme Court in that case might not necessarily be limited to a holding about those specific types of investment options," Wong said.

She added that she's watching to see if the decision is "more broadly addressed to investment option challenges across the board, as well as similar types of challenges to recordkeeping fees, and the meaningful comparator requirement that many courts have used to enforce the plausibility standard in a significant way at the pleading stage."

J.J. Conway of J.J. Conway Law, a longtime ERISA practitioner and plaintiff-side attorney, also took note of the Supreme Court's decision to grant review in the case as a significant development. He said he expected justices to potentially embrace some sort of benchmark pleading standard.

"I think that because it's an underperformance case, they're going to require that there be a pleading standard that explains that there were options at the time that would have performed better, that the plan trustees would have been aware of," Conway said.

The case is *Winston R. Anderson et al. v. Intel Corp. Investment Policy Committee et al.*, case number 25-498, in the Supreme Court of the United States.

4th Circ. Knocks Out Genworth 401(k) Class Cert.

The Fourth Circuit's decision revoking class certification in two Genworth Financial Inc. ex-workers' case alleging that they lost millions on underperforming BlackRock Inc. target-date funds quickly impacted similar ERISA suits.

A three-judge panel in a March 10 published opinion **reversed and vacated** a class certification decision from August 2024 in the dispute led by Peter Trauernicht and Zachary Wright, two ex-workers for Richmond, Virginia-headquartered insurance company Genworth.

Trauernicht and Wright filed suit in 2022, alleging that Genworth selected BlackRock target-date funds based on their low fees and made them the 401(k) plan's default investment option while ignoring lackluster returns, breaching ERISA's fiduciary duty of prudence. BlackRock isn't named as a defendant in the suit, which targets Genworth with ERISA claims.

The Fourth Circuit panel disbanded the class after holding fund investors' varying experiences undermined commonality needed for certification of their claims.

U.S. District Judge Robert E. Payne in 2024 had **signed off on a no-opt-out-class** of more than 4,000 current and former participants in Genworth's employee 401(k) plan who invested in the BlackRock funds, with the class period running from August 2016 to the date of judgment.

The appellate panel's decision revoking certification led U.S. District Judge Michael S. Nachmanoff to **vacate class certification** on March 13 in another 401(k) fund suit proceeding against an electric utility trade group. Insurance giant Nationwide also **moved to decertify** a class of employee 401(k) plan participants in Ohio, citing the Genworth ruling.

Andrew Salek-Raham, principal at Groom Law Group who specializes in ERISA class action defense, listed the Fourth Circuit's ruling in the Genworth case as a major decision from the first half of 2026, and said the appellate court's important holding "does create a disincentive to bringing class actions in the Fourth Circuit involving defined-contribution plans."

Salek-Raham also said the case underscores how courts are ruling differently on class certification nationwide.

"There are some courts that hold that ERISA class actions are essentially pretty easy decisions, that they're inherently certifiable. But it's not all courts for sure, and Genworth is a good example of a recent one that has said, 'No, courts need to be thinking harder about this, particularly in the defined-contribution plan context,'" Salek-Raham said.

The appellate court **asked Genworth for input** on ex-workers' bid for rehearing before denying the motion on June 4.

The case is *Peter Trauernicht v. Genworth Financial Inc.*, case number 24-1880, in the U.S. Court of Appeals for the Fourth Circuit.

5th Circ. Agrees to Rehear Aramark-Aetna Health Dispute

The full Fifth Circuit agreed to rehear an appeal in a federal benefits lawsuit between uniform company Aramark and its employee health plan administrator Aetna, which has caught the attention of benefits attorneys because it deals with an arbitration clause that applies to claims for equitable and other types of relief under ERISA.

The appellate court on April 28 **granted Aetna's petition for rehearing en banc** in its appeal, which seeks to force Aramark to arbitrate allegations that its health plan administrator took more than \$200 million to pay for medical services that should not have been paid out, while retaining millions of dollars in undisclosed fees.

Aramark filed suit in September 2023, and a Texas federal judge **turned down Aetna's arbitration motion** in April 2024. A three-judge panel in a **published opinion** in December had affirmed the Texas court's arbitration rejection, a decision that was vacated once the appellate court granted en banc rehearing.

Elizabeth Hopkins, founder and principal of Hopkins ERISA Law and a longtime plaintiff-side benefits attorney, took note of the Fifth Circuit's decision to grant en banc review, calling the development "a big deal."

"Like most courts, the Fifth Circuit only takes a handful of cases en banc a year," Hopkins said, noting that the case is reaching appellate review at the Fifth Circuit at the same time the U.S. Supreme Court is considering related arguments about the availability of monetary relief under ERISA in a dispute from ex-Ruby Tuesday executives. The high court asked for the U.S. solicitor general to **file a brief in that case** in April.

The case is Aramark Services Inc. Group Health Plan et al. v. Aetna Life Insurance Co., case number 24-40323, in the U.S. Court of Appeals for the Fifth Circuit.

Justices Side With Multiemployer Fund in Withdrawal Fight

The Supreme Court's holding that multiemployer pension plan actuaries can retroactively change assumptions underlying their withdrawal liability calculations is **likely to raise costs for withdrawing employers**, according to attorneys and experts who fielded justices' recent decision favoring a union multiemployer pension fund.

Justices **unanimously affirmed the D.C. Circuit** in a May 21 opinion written by Justice Ketanji Brown Jackson that rejected withdrawing employers' argument for time restrictions on the methodology underpinning penalties for pulling out of the fund.

The D.C. Circuit in February 2024 **had sided with the trustees** of the IAM National Pension Fund, a Taft-Hartley multiemployer fund, jointly administered by trustees selected by the International Association of Machinists and contributing employers, in its dispute with four withdrawing employers. The fund benefits IAM union workers. Justices had **granted a petition for review** in June 2025 from a group of withdrawing employers, led by M&K Employee Solutions LLC and Ohio Magnetics Inc., that the IAM fund had sued over various plan pullouts dating to 2018.

The Supreme Court's ruling affirming a win for the IAM fund trustees came after significant amicus participation in the case, with multiemployer plans, actuaries and the U.S. Department of Labor writing in support of the trustees' position and against the petitioning employers. Employers also drew amici support, including from the U.S. Chamber of Commerce and the HR Policy Association.

John Lowell, an actuary and partner with October Three, a consulting firm specializing in defined benefit plans including services to employers in multiemployer pension plans, said the decision is expected to increase costs for many withdrawing employers.

"We don't know whether and by how much funds actuaries will change interest rates for withdrawal liability purposes post-M&K. Contributing employers, however, need to understand how highly leveraged the calculation is if and when they do withdraw," Lowell said, who is not an attorney.

The case is M&K Employee Solutions LLC et al. v. Trustees of the IAM National Pension Fund, case number 23-1209, in the Supreme Court of the United States.

11th Circ. Revives Energy Co. Mortality Table Battle

The Eleventh Circuit joined the Sixth Circuit in holding that mortality assumptions underlying actuarial assumptions used in retirees' annuity conversions have to be reasonable, in a decision that

cited the Supreme Court's holding just days before in a union withdrawal fight.

A three-judge panel in a **published opinion** on May 26 reversed a Georgia federal court's 2024 **decision dismissing** the ERISA proposed class action, reviving claims against Southern Company Services Inc. and remanding the case for further proceedings. Southern Company Services is a subsidiary of gas and electric utility Southern Co., which operates throughout the Southeast.

Peter Sessions, a plaintiff-side partner at Kantor & Kantor LLP, took note of the decision as a significant one in ERISA litigation. He also pointed out how in combination with the **Sixth Circuit's revivals** in mortality table disputes against Kellogg and FedEx in March, the appellate courts are influencing the pleading standard for these cases.

"Anytime you have a new issue pop up and the first two courts to look at it rule the same way, that creates kind of a snowball. It's going to be a lot harder for future circuit courts to go the other way with these two decisions out there," Sessions said.

"I think it is a big deal, because before these two decisions, you kind of saw district courts going both ways on the issue," he added.

The case is Drummond et al. v. Southern Co. Services Inc. et al., case number 24-12773, in the U.S. Court of Appeals for the Eleventh Circuit.

--Editing by Amy Rowe and Bruce Goldman.