

5 ERISA Cases To Keep An Eye On In The Second Half Of 2026

By **Kellie Mejdrich**

Law360 (June 26, 2026, 4:53 PM EDT) -- A U.S. Supreme Court challenge to Intel Corp.'s 401(k) investment lineup tops the list of cases benefits attorneys will be watching this summer and fall, though appeals involving health plan tobacco fees, plan forfeiture spending and a potential Eleventh Circuit precedent shift are also top of mind.

Here are five Employee Retirement Income Security Act cases attorneys should have on their radar as 2026 rolls on.

Supreme Court Briefs Ahead in Intel 401(k) Suit

Briefing continues this summer in Intel Corp. ex-workers' appeal seeking to revive allegations that underperforming investment offerings in the technology company's two employee 401(k) plans lost workers millions on future retirement savings, after justices accepted ex-workers' petition for review in January.

Attorneys named the Supreme Court's **decision to accept** Intel ex-workers' petition as **one of the major ERISA litigation developments** for the first half of the year. They remain focused on future developments this summer after a wave of amicus filings in the case this spring and with another brief from Intel due on Thursday.

The justices in April granted a briefing extension request from the Intel ex-workers, who said in their extension request that, with the petitioners' reply due 30 days after Intel's brief is filed in early July, the schedule would permit hearing arguments in the case in October.

The ex-workers argued in their now-accepted **cert petition** that the Ninth Circuit, which **shut down their case in May 2025**, imposed too strict a standard by requiring them to identify similar funds for comparison — known as a meaningful benchmark — to state an ERISA breach-of-prudence claim.

Michael Hines, a partner in Skadden Arps Slate Meagher & Flom LLP's litigation practice group who focuses on employee benefits, said he's watching the Supreme Court case, which gives justices a chance to decide whether a meaningful benchmark is required to allege retirement plan investment imprudence.

"It gives the court an opportunity, from my perspective, to put meaningful limits on fiduciary litigation at the pleading stage," Hines said.

Hines said decisions in the last two retirement plan investment challenges for the Supreme Court to consider, *Cunningham v. Cornell* and *Hughes v. Northwestern*, "left unresolved questions about appropriate limits on ERISA claims at the motion to dismiss stage."

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.

Casino Worker Asks 1st. Circ. to Restart Tobacco Fee Suit

A casino worker's First Circuit appeal seeking to revive allegations that an employee health plan surcharge for tobacco use violated federal benefits law is among a wave of new proposed class

actions targeting health fees that benefits attorneys say they're watching for developments.

In a sign of the appeal's potential impact, the U.S. Chamber of Commerce **filed an amicus brief in the case** in April in favor of affirming dismissal of the suit against Rhode Island-based casino company Bally's Management Group LLC, which Bally's employee Tracy A. Williams filed in April 2025.

A Rhode Island federal judge **tossed the case** in November, rejecting arguments from Williams that she had plausibly alleged Bally's tobacco fee in its employee health plan didn't meet federal regulatory requirements and therefore violated ERISA. On appeal, Williams argues that the lower court erred in holding that Bally's wasn't required to provide retroactive reimbursement of the tobacco fee after completing a smoking cessation program.

Skadden's Hines said that, while he couldn't comment on any specific case, he's watching for any developments in the area of "tobacco surcharge litigation," including on appeals.

"I'll be looking to see what the circuit courts do on these cases, because they are proliferating. ... I do think there's some tension between the regulation and the statute," Hines said.

The case is Williams v. Bally's Management Group LLC, case number 25-2159, in the U.S. Court of Appeals for the First Circuit.

9th Circ. Ruling Awaited in HP 401(k) Forfeiture Fight

A Ninth Circuit appeal from an HP Inc. ex-worker who alleged the technology company misspent 401(k) forfeitures has a group of similar proposed class actions in the circuit on hold, with attorneys monitoring the docket after a **three-judge panel heard arguments** in the case on May 20.

During arguments, the Ninth Circuit panel appeared reluctant to revive the case against HP from ex-worker Paul Hutchins. A California federal court tossed the case for failure to state a claim and **denied leave to amend** in February 2025.

Several forfeiture suit appeals are pending alongside the Ninth Circuit case, including two appeals at the Third Circuit from workers seeking to revive allegations against Siemens Corp. and Honeywell International Inc.

Peter Sessions, a plaintiff-side partner at Kantor & Kantor LLP, said the outcome of the case against HP is "probably the most important" of the pending appeals.

"The court decision in that case is by far the most-cited case on this issue. ... Everyone has cited that ruling, and it is pretty thorough. So, I think the Hutchins case is probably going to be the most influential," Sessions said.

Rick Pearl, a defense-side partner at Faegre Drinker Biddle & Reath LLP, said without mentioning a specific case that he's also keeping an eye out for any developments in 401(k) forfeiture litigation, including in cases on appeal.

"I ultimately think these cases should be disposed of primarily on the pleadings," Pearl said.

The case is Hutchins v. HP Inc. et al., case number 25-826, in the U.S. Court of Appeals for the Ninth Circuit.

3rd Circ. Weighing Siemens Corp. 401(k) Suit Revival

A Siemens Corp. worker's appeal at the Third Circuit has also drawn attorneys' attention, with a three-judge panel during arguments in May **indicating openness to reviving** the proposed class action alleging 401(k) forfeitures were misallocated.

The same panel hearing the appeal from Siemens Corp. worker Jim Cain also heard an appeal from Honeywell International Inc. ex-worker Luciano Barragan, with the U.S. Department of Labor arguing as amicus in favor of the employers in both cases.

Andrew Salek-Raham, principal at Groom Law Group who specializes in ERISA class action defense, said he's watching the Third Circuit appeals and noted that litigation over forfeiture spending has spurred employers to change their plan language.

"I think after these cases came out, a lot of employers took a good look at their forfeiture language and their plan documents, and I think a lot of courts are focused on the language and the plan documents as a starting point for deciding these, so it's certainly something I think employers are looking at," Salek-Raham said.

The case is *Jim Cain v. Siemens Corp.*, case number 25-2564, in the U.S. Court of Appeals for the Third Circuit.

Full 11th Circ. Mulling ERISA Exhaustion

Seafood company workers' appeal at the Eleventh Circuit has opened the door to potentially repealing the appellate court's strictest-in-the-nation standard on administrative exhaustion in ERISA cases, something judges voiced support for **during en banc arguments** on June 2.

A group of ex-workers for Tucker, Georgia-based Inland Fresh Seafood Corp. of America Inc. filed suit in 2022 against the company on behalf of a proposed class of participants in the Inland Fresh employee stock option plan, appealing to the Eleventh Circuit after a Georgia court tossed the case in 2023.

Inland Fresh ESOP participants allege Inland, its ESOP trustee and other shareholders of private stock breached their fiduciary duties by structuring a \$92 million sale of overvalued private stock to the workers' ESOP using a company loan in 2016.

A three-judge panel **unanimously affirmed dismissal** of the ex-workers' case in October, citing the appellate court's ERISA administrative exhaustion standard set in 1985 in *Mason v. Continental Group*. But one of the panel's judges in a concurrence encouraged the appellate court to repeal its administrative exhaustion standard, which requires that workers always pursue their claims using their employer's internal processes before filing in federal court.

Elizabeth Hopkins, founder and principal of Hopkins ERISA Law and a longtime plaintiff-side benefits attorney, said she's watching the Eleventh Circuit appeal and took note of how judges expressed support for repealing the exhaustion requirement during arguments.

"A couple of the judges, including the chief judge, all but said that they were going to go back on that. And they really stood alone in that requirement, it was completely court-created, and it was really outside the context of a benefit claim, so it really was a one-off kind of decision in the circuits," Hopkins said, referring to the appellate court's administrative exhaustion rule.

The case is *Rani 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.

--Editing by Bruce Goldman and Dave Trumbore.