GOVERNMENT & POLITICS

The DOL's latest amicus briefs and what they signal for ERISA cases

Gift Article Share

(REUTERS)

By **Courtney Degen**

August 03, 2026 03:33 PM EDT

Key Takeaways

- Under acting Labor Secretary Keith Sonderling, the Labor Department filed three amicus briefs in July in cases involving ERISA retirement plans.
- Sonderling previously said the DOL is filing more amicus briefs to document the administration's views on certain legal questions.
- The cases cover three separate issues: the "meaningful benchmarks" standard, pension risk transfers and forfeited funds.

Over the past month, the Labor Department filed three amicus briefs in court cases involving ERISA retirement plans, revealing the agency's thoughts on three distinct issues for plan sponsors: the "meaningful benchmarks" standard, pension risk transfers and forfeited funds.

In January, then deputy Labor Secretary Keith Sonderling said the DOL is filing more amicus briefs to document the Trump administration's views on certain legal questions. He added that an amicus brief from the government "carries significant weight because we are the experts."

Joshua Lichtenstein, partner at law firm Ropes & Gray, explained that an amicus brief, or a "friend of the court," shares a specific perspective from individuals or parties not involved in the case "to enable the court to have the fullest picture of the issue that it's deciding."

He said that the DOL's recent use of amicus briefs to weigh in on ERISA issues is "welcome (from the industry), because ERISA cases are really complicated."

Earlier in July, lawyers said the DOL's increase in amicus briefs aligns with the desire of Sonderling, now acting Labor Secretary, to sort out issues in advance, and they predicted the agency would file more in the future.

Michael Kreps, a principal and fiduciary practice leader at Groom Law Group, said the DOL is clearly "doing more (amicus briefs), making them more public, and submitting briefs in more high-profile issue areas that are that are ripe with litigation."

Here’s an overview of three recent amicus briefs from the DOL and what to know about them.

DOL weighs in on ‘meaningful benchmarks’ Supreme Court case

In its first amicus brief filed this month, the DOL urged the U.S. Supreme Court to affirm a lower court’s decision that dismissed a lawsuit claiming a retirement plan sponsor acted imprudently based on its investment choices.

The case — Anderson et al. vs Intel Investment Corp. Investment Policy Committee et al. — started when former employees alleged two Intel retirement plans’ investments in hedge funds and private equity created comparatively high fees and poor performance.

A district court dismissed the complaint on two separate occasions, and the 9th U.S. Circuit Court of Appeals upheld the rulings in May 2025, contending the plaintiffs “did not plausibly allege that Intel’s funds underperformed other funds with comparable aims.”

When its next session begins in October, the Supreme Court is set to weigh in on the case and the merits of a legal standard known as “meaningful benchmarks,” which is when a court requires apples-to-apples comparisons before allowing ERISA cases to proceed.

In its amicus brief, the DOL backed the meaningful benchmark standard, contending that to “plausibly allege that one fund’s underperformance relative to another implies a breach of fiduciary duty, a plaintiff must compare funds that are meaningfully similar.”

“Requiring a meaningful benchmark is consistent with this Court’s precedents interpreting ERISA,” the DOL also said in its amicus brief.

The brief is described as "one in a series filed by the Department of Labor focused on ending the overuse of litigation against ERISA retirement plans and those who manage them," the DOL said in a July 10 news release.

Lichtenstein noted that in this brief and others from the current DOL, the department expresses its concerns with plaintiffs and plaintiffs' attorneys "bringing a volume of cases that is distortionary of traditional understandings of ERISA."

Kreps similarly said the DOL's intent through these briefs is to "crack down on what they believe is meritless ERISA litigation."

While the amicus brief clearly shows the DOL's support for the meaningful benchmark standard, its future will ultimately depend on the Supreme Court.

DOL continues backing of pension risk transfers

In another amicus brief, the Labor Department backed pension risk transfers for the second time this year.

Following a January amicus brief for a PRT lawsuit, the DOL also weighed in on another PRT case, Doherty v. Bristol-Myers Squibb Corp., on July 21.

In the case, former participants and beneficiaries of Bristol-Myers Squibb's retirement plan alleged the company violated its fiduciary duties by transferring retirement benefits to Athene, "which in their view, was not the 'best or safest annuity provider,'" according to the DOL's amicus brief.

The DOL contended that the plaintiffs lack standing, which is the same argument that Bristol-Myers Squibb made in asking a district court to dismiss the case. However, the district court denied that motion.

In its amicus brief, the DOL urged the U.S. Court of Appeals for the 2nd Circuit to break from the district court and dismiss the case, contending the plaintiffs could not show the company's PRT "caused any monetary harm or has created a certainly impending threat of monetary harm."

The brief contends that "ERISA explicitly gives employers, as plan sponsors, the right to perform pension risk transfers," echoing the argument the DOL made in January.

"If companies like Bristol-Myers Squibb have no meaningful way to eliminate oversized financial risks by engaging in a PRT, they will have terrifically reduced incentives to provide their employees with defined-benefit pension plans in the first place," the department warned in the July brief.

Lichtenstein said that the DOL's is clearly conveying its view that the U.S. retirement system "is a voluntary system … and anything you do that forces costs to be higher, that shifts more risk onto plan sponsors, that the risk is really to the plan participant."

DOL files amicus brief in forfeiture case

In its most recent amicus brief, the DOL urged the 4th U.S. Circuit Court of Appeals to affirm a lower court's decision dismissing claims of breached fiduciary duty for how a plan used forfeited funds.

In the case, Stana v. SAS Institute Inc., former participants of SAS's retirement plan alleged the company breached its fiduciary duty by not using forfeited funds for plan expenses.

"Plaintiffs' theory is meritless," the DOL contended in its July 24 amicus brief, noting that ERISA is meant to protect contractually defined benefits.

"The main contractual 'benefits' that Plaintiffs enjoy are the SAS-contributed matching funds that are fully accessible after five years with the company and their own contributions held in trust—neither of which SAS's forfeiture decisions imperiled," the brief continued.

The DOL goes on to contend that the plaintiffs' theory "threatens to limit the flexibility of employers and harm American workers."

"This case deserves a swift end," the department wrote in the brief. "To cultivate an ERISA landscape with the fertile soil that sustains both employer and worker, the weeds must be pulled."

The Labor Department first weighed in on plan sponsors' use of forfeited funds in July 2025, similarly arguing that the plaintiffs in that case failed to show breaches of fiduciary duty.