

EMPLOYEE-BENEFITS AND EXECUTIVE-COMPENSATION INFORMATION MEMO

JUNE 1, 2026

The Supreme Court Weighs In On Withdrawal Liability Assumptions: What Does It Mean For Employers?

On May 21, 2026, the United States Supreme Court decided its first withdrawal liability case in a very long time. This alert covers the dispute, what the Court said and how it affects employers with union workforces.

First, a little background on withdrawal liability. After the enactment of ERISA (Employee Retirement Income Security Act of 1974), many multiemployer pension funds were becoming underfunded with not enough assets to pay all projected pension benefits. Employers contributing to these funds, not wanting to get stuck “holding the bag” for the unfunded liability, ran for the exits, causing even further underfunding. Congress’s solution was to establish withdrawal liability, requiring pension funds to charge an employer a share of the underfunding when it exits.

The amount of withdrawal liability is determined by a pension fund using actuarial assumptions – most importantly the interest rate, which is a prediction of the growth of the pension fund’s assets and is used to discount future liabilities to the present day.

In *M&K Employee Solutions v. Trustees of the IAM National Pension Fund*, the Court addressed when these assumptions must be selected. As context, employers in this case withdrew in 2018, but under ERISA, withdrawal liability is determined as of the last day of the prior “plan year,” here, Dec. 31, 2017. In January of 2018, the pension fund actuary selected an interest rate of 6.5% for withdrawal liability valuations as of Dec, 31, 2017. Before that, the fund had used a 7.5% interest rate. The interest rate is the most significant assumption in a withdrawal liability calculation and a decrease in the interest rate results in an increase in liability. For one of the employers involved, this change increased withdrawal liability by \$4.5 million. In simplified terms, the employers’ position boiled down to arguing that the fund impermissibly retroactively chose an interest rate in January 2018 for a withdrawal valued as of December 2017. (The Second Circuit previously adopted the employers’ theory in *National Retirement Fund v. Metz Culinary Mgmt., Inc.*, 946 F.3d 146 (2020).)

The Court unanimously rejected the employers’ argument, overturning *Metz*, noting that the statute contains no requirement to choose an actuarial assumption by a certain date. Further, the Court said that the employers’ proposed rule (i.e. adopting assumptions by the last day of the plan year preceding withdrawal) would require actuaries to select actuarial assumptions based on incomplete data. The Court was unconcerned with the employers’ contention that pension funds could retroactively manipulate assumptions to increase liability.

What does this mean for employers? While this holding eliminates one-way employers can dispute withdrawal liability determinations, it primarily affects the relatively rare situation where a pension fund changes its assumptions retroactively and an employer withdraws in that year. It will, however, have the effect of making withdrawal liability less predictable and withdrawal liability estimates less reliable. Withdrawal liability will be less predictable because employers cannot know what assumptions a pension fund will use to calculate their liability when deciding whether to exit a fund. Further, while withdrawal liability estimates remain the single best way for employers to quantify their potential liability—we typically recommend periodic estimates for business planning purposes—employers will need to understand that an actual withdrawal may be calculated using different assumptions.

Additionally, some of the Court's statements not directly related to the holding may cast doubt on a string of employer-friendly cases that have narrowed actuaries' latitude to select assumptions. For example, the Court emphasized that "actuarial assumptions are adopted for the purpose of a particular calculation or measurement." This language supports the potential use of different (and less favorable) interest rates for withdrawal liability and funding purposes. In other words, pension funds will likely employ this statement to support the common but questionable practice of using a discount rate significantly lower than the pension fund's funding rate for withdrawal calculations, which increases liability.

Employers will continue to have the ability to challenge an actuary's withdrawal liability assumptions in arbitration. (Timely arbitration is mandatory for employer challenges to withdrawal liability calculations.) The Court made clear that assumptions must be reasonable and reflect the actuary's best estimate.

If you have questions about withdrawal liability or how it could affect your business planning needs, contact [Gregory Katz](#), any attorney in our [employee benefits and executive compensation practice](#) or the attorney at Bond with whom you are regularly in contact.

