

Old Assumptions, Current Problems: New Sixth Circuit Ruling on Actuarial Assumptions for Pensions

March 26, 2026

A recent decision by the U.S. Court of Appeals for the Sixth Circuit (which covers Michigan, Ohio, Tennessee and Kentucky) signals an increased willingness to scrutinize outdated actuarial assumptions used by defined benefit pension plans.

Mortality tables and interest rate assumptions (collectively, “actuarial assumptions”) are key factors used by defined benefit pension plans to convert a participant’s benefits under the plan to another (earlier or later) benefit commencement date, or to a different form of payment (such as from a single life annuity to a joint and survivor annuity). Participants bringing these so-called “actuarial equivalence litigation” cases have generally alleged that the use of outdated mortality tables result in lower benefit calculations. Plan sponsors, on the other hand, have responded that the Employee Retirement Income Security Act (ERISA) does not define the term “actuarial equivalence,” nor does ERISA generally require the use of any particular mortality tables, but rather provides great flexibility to plan sponsors when deciding what mortality tables to use. Some defendants have also made the argument that ERISA does not explicitly require a plan’s actuarial assumptions to be reasonable.

Sixth Circuit Rules in favor of Participants

The Sixth Circuit recently heard two consolidated cases, *Reichert v. Kellogg* and *Watt v. FedEx*, in which plan participants argued that the plans’ actuarial assumptions were outdated and that their benefits would be higher if calculated based on longer life expectancies under more current mortality tables. (In each of the consolidated cases, the plans used mortality tables from the 1960s-1970s.) The court held, in a 2-1 decision, that the term “actuarial equivalence,” as used in ERISA, implicitly requires the use of reasonable assumptions, including mortality data that reflects current life expectancies, not those from half a century ago.

Accordingly, the court found that the participants had plausibly alleged that the outdated tables violated this reasonableness requirement and deprived the participants of actuarially equivalent benefits, as required by ERISA. The court emphasized, however, that “reasonableness” is a factual determination, and the court did not prescribe that a particular mortality table be used. Ultimately, the Sixth Circuit remanded the cases back to the district courts for an evaluation of the reasonableness of the actuarial assumptions used by the plans.

Implications for Plan Sponsors

Overall, these cases show that courts (and particularly the Sixth Circuit) are willing to scrutinize dated actuarial assumptions used by defined benefit pension plans. Plan sponsors of defined benefit pension plans should consider consulting with their actuaries and attorneys to reevaluate whether the actuarial factors specified in their plans remain reasonable. It’s worth noting that the tables in these cases and similar litigation across the country are by no means outliers. Mortality tables of this vintage are used by the majority of plans nationwide. While this has been an accepted industry practice for decades, this Sixth Circuit ruling demonstrates that it is not without risk.

Continued

Please reach out to the authors or your Miller Canfield attorney if you sponsor a defined benefit pension plan and would like to discuss the impact of this Sixth Circuit ruling on your plan.