

ACTUARIAL EQUIVALENCE LAWSUITS UPDATE: ONE CASE AGAINST AT&T DISMISSED

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We have reported from time to time on the recent wave of actuarial equivalence lawsuits that have been brought against sponsors of defined benefit pension plans. The claims, broadly speaking, allege that factors used to determine actuarially equivalent forms of benefit, or to actuarially reduce early retirement benefits, are outdated. As a result, participants bringing such lawsuits are alleging that they are not receiving all the vested retirement benefits to which they are entitled, which would be an ERISA violation.

As we noted in an article for our October 2019 Employee Benefits Newsletter ([view here](#)), AT&T is one of the prominent employers that sponsors a defined benefit pension plan and faced a lawsuit alleging AT&T's pension plan has been using outdated actuarial equivalence factors. The plaintiffs in the AT&T case alleged that both the early retirement factors as well as the joint and survivor annuity factors used by AT&T's plan to calculate benefits were old and did not reflect the general longevity of Americans which ultimately translated into benefit payments to participants that were less than the actuarial equivalent of their protected retirement benefits.

AT&T filed a motion to dismiss the plaintiffs' claims. AT&T argued the plaintiffs lacked standing to sue because they did not adequately demonstrate injury based on the application of the plan's early retirement and joint and survivor annuity factors. The judge concluded that AT&T showed the factors used by the plan were formulated in accordance with statutory requirements (i.e., Internal Revenue Code Section 417(e)), which contradicts the plaintiffs' allegations in support of their claim. Because the plaintiffs bear the burden of demonstrating injury and they failed to meet that burden, the lawsuit was dismissed for lack of standing. (*Eliason v. AT&T Inc.*, N.D. Cal. 2020)

AT&T, however, is not entirely out of the woods on this type of actuarial equivalence claim. After being granted a dismissal in the *Eliason* case, AT&T faces a new class-action lawsuit filed on October 12 that again alleges violations of ERISA's actuarial equivalence, anti-forfeiture, joint and survivor annuity, and early retirement benefit requirements with respect to AT&T's pension plan.

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