

LEGAL UPDATES

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Sixth Circuit, Missouri District Court Differ as to Whether ERISA Requires Updated Mortality Tables

Last week, two different federal courts came to two different conclusions regarding whether the use of allegedly “outdated” mortality tables violates ERISA’s provisions that certain lifetime annuities be “actuarially equivalent.” In a spate of lawsuits, plaintiffs have argued that if the assumptions governing the plan’s actuarial calculations are not current then the assumptions are not “reasonable” and, therefore, do not produce actuarially equivalent results. District courts have split on whether the use of outdated mortality tables means that the lifetime annuities fail the actuarially equivalent standard.

On March 16, 2026, the Sixth Circuit Court of Appeals became the first federal Court of Appeals to weigh in on this issue. In *Reichert v. Kellogg*,^[1] the Sixth Circuit reversed the orders of two district courts that had granted motions to dismiss and held that the use of outdated mortality tables violates ERISA.

On the other hand, on March 20, 2026, in *Landel v. Olin Corp., et al.*,^[2] the District Court for the Eastern District of Missouri ruled the opposite way, granting Olin’s motion to dismiss a putative nationwide class action. The Court held that the plain language of ERISA’s statutory text does not require that mortality tables be periodically updated or reasonable and, therefore, use of the mortality table designated in the plan document does not violate ERISA or breach ERISA’s fiduciary duties.^[3]

Statutory Background

The issue in these cases is whether ERISA requires plan fiduciaries to use up-to-date mortality tables and interest rates when converting certain forms of benefits for married participants.

Under ERISA, plan participants may receive pension benefits owed in a lump sum, or in a lifetime annuity payable in monthly payments for the participants' life. A married participant may receive the annuity payments in the form of a joint and survivor annuity (JSA), which is an annuity for the joint life of the participant and his or her spouse. Under a JSA, the participant receives monthly payments for life, and when the participant dies, his or her surviving spouse will continue to receive monthly payments for the remainder of the spouse's life, at the designated percentage.

Generally, a JSA would be expected to extend for more years than a single life annuity, because it continues for the joint lifetimes of both the participant and spouse, rather than just the participant's lifetime. As a result, the monthly payments are adjusted, so that the JSA will have the same anticipated present value as the single life annuity. Under ERISA, the JSA must be calculated so that it is "the actuarial equivalent of a single annuity for the life of the participant." 29 U.S.C. § 1055(d)(1)(B). The two primary factors in calculating whether two income streams are the "actuarial equivalent" are mortality data (how long the payments are expected to last) and interest rates. The key question is: Is a plan required to periodically update these factors?

Dating back to 2019, there have been ongoing cases addressing whether ERISA requires pension plans to use current, reasonable mortality tables and interest rates when converting single life annuities to joint and survivor annuities. Plaintiffs argue that the term "actuarial equivalence" implies the use of *reasonable* actuarial factors, and that outdated mortality tables or interest rates are not reasonable and cannot produce the actuarially equivalent result.

Conversely, employers and plans argue that the term "actuarial equivalent" means that two annuities are equal under a given set of assumptions; a plan meets this requirement if it uses the actuarial assumptions disclosed in the governing plan document, without any additional requirement that the assumptions be periodically updated. Congress imposed a "reasonableness" requirement for calculation of other types of payments under ERISA, and its failure to do so for the JSA conversion must be considered deliberate. For JSAs, ERISA requires that plan benefits be definitely determinable and set forth in the plan document. Indeed, changing the mortality factors and interest rates used in the conversion could actually decrease benefits owed to some participants, to their detriment.

Courts have split on whether the actuarial equivalence requirement includes an implicit reasonableness standard for mortality assumptions. Some early cases found ERISA's actuarial equivalence provisions require pension plans to use reasonable (and therefore, current) mortality tables when converting single life annuities to joint and survivor annuities.

Other courts have held that the meaning of "actuarial equivalence" could not be determined on a motion to dismiss and have relied upon expert testimony to establish its meaning. For example, in *Belknap v. Partners Healthcare System, Inc.*, after denying the employer's motion to dismiss, the District of Massachusetts granted the employer summary judgment, holding that actuarial

equivalence means only that the actuarial factors must be the same and that there is no separate requirement that the factors be reasonable or current.

Still other courts have been reluctant to make a ruling at either the motion to dismiss or summary judgment stages. In those cases, many employers have faced the difficult decision between entering into class-wide settlements to avoid further expense and liability, or continuing to fight the case in court, at potentially great expense.

In 2024, two district courts in Michigan and Tennessee granted defendants' motions to dismiss, holding that § 1055(d) does not include a reasonableness requirement when it comes to updated mortality tables to determine actuarial equivalence.[4] These cases were consolidated for appeal before the Sixth Circuit, in the *Reichert* opinion.

Recent Decisions Continue the Trend of Splitting on the Issue

The two most recent cases—*Reichert and Landel*—continue the pattern of courts reaching divergent outcomes on whether ERISA requires plans to update the mortality tables set forth in their plan documents for benefits to be the actuarial equivalent.

Reichert v. Kellogg Company

The *Reichert* decision, issued March 16, 2026, was the first time a federal Court of Appeals has weighed in on this issue. That consolidated appeal involved decisions from Michigan and Tennessee, where the district courts had granted defendants' motions to dismiss holding that § 1055(d) does not include a reasonableness requirement.

The Sixth Circuit Court of Appeals, by a 2-1 decision, reversed the district courts' dismissals. The majority held that ERISA requires plans to use up-to-date mortality assumptions that reasonably reflect lives of applicable benefit recipients to calculate JSAs. The Court grounded its holding in pre-1974 actuarial resources, which stated that mortality tables must be "appropriate" or "suitable," and found that as mortality rates change, so too must the actuarial data that practitioners select. Because ERISA is silent on its actuarial equivalence requirements, the majority relied on pre-ERISA, state law decisions to guide its understanding, with those state courts having held that "actuarial equivalence" requires the most accurate tables available.

The Court rejected the defendants' argument that ERISA's silence on any express "reasonableness" requirement means plans may use the mortality table designated in the plan. According to the majority, adopting the defendants' view would give employers unlimited discretion to set benefits without any regard to whether the annuities have equal present value.

The Court therefore held that §1055(d) prohibits employers from using unreasonable or inappropriate actuarial assumptions when calculating JSAs. Because plaintiffs plausibly alleged that defendants used mortality data from the 1960s and 1970s that no longer reflects modern life expectancy, their claims survive and the cases were reversed and remanded.

Judge John Nalbandian issued a strong dissent, arguing that the majority departed from standard statutory interpretation principles by reading a “reasonableness” requirement into ERISA’s text where none exists. The majority and dissent agreed that two benefits are “actuarially equivalent” when their present values are equal “under a given set of actuarial assumptions,” but the dissent concluded that this definition does not carry any implicit requirement that those assumptions themselves be reasonable. Judge Nalbandian’s dissent pointed to other ERISA provisions where Congress explicitly required “reasonable” actuarial assumptions, arguing that Congress’s deliberate inclusion of that word elsewhere, and its omission from §1055(d), meant that no such requirement was intended for JSA calculations.

The dissent further argued that the majority’s concern about employers gaming the system with dramatically outdated mortality data is overstated, because under the Internal Revenue Code and its implementing regulations a pension plan with unreasonable assumptions could lose its tax-exempt status, which provides a far stronger deterrent than ERISA’s private remedies. Ultimately, the dissent cautioned that the majority’s ruling would invite significant new litigation and administrative costs that ERISA was carefully designed to avoid.

Landel v. Olin Corp.

In *Landel v. Olin Corp.*, the District Court for the Eastern District of Missouri ruled the opposite, finding that the plain language of ERISA’s statutory text does not contain a “reasonableness requirement,” and therefore, use of an older mortality table does not amount to a violation of ERISA or a breach of ERISA’s fiduciary duties. The Court rejected the plaintiffs’ argument that § 1055 contains an implicit substantive requirement to use “reasonable” and up-to-date assumptions, holding that plaintiffs’ interpretation “is not supported by a plain reading of the text” of § 1055.

Relying on established actuarial definitions, the Court concluded that two benefit payment modes are “actuarially equivalent” when their present values are equal under a given set of actuarial assumptions, and nothing more is required. The Court reasoned that ERISA imposes no further substantive requirement beyond that mathematical equivalence. The Court emphasized that Congress knew how to write a reasonableness requirement when it wanted to, having done so in other ERISA provisions governing lump-sum benefits and plan funding, so its silence in the annuity context was therefore deliberate. The Court found that because the plan openly disclosed the actuarial assumptions it uses, it satisfied the definition of actuarial equivalence, as a matter of law.

The Court also dismissed plaintiff's claims for breach of fiduciary duty, which were tied to the alleged violations of ERISA. Because the Court found no ERISA violation in the plan's methodology, the Court saw no basis on which to hold defendants liable for faithfully following it. Accordingly, the class action lawsuit was dismissed with prejudice.

Key Takeaways

The two recent cases highlighted above expose how federal courts are currently split when determining whether ERISA's actuarial equivalence requirements contain a "reasonableness" requirement mandating the use of the most up-to-date mortality information. Plan sponsors using older actuarial tables and interest rates should take note, as this remains an active and evolving area of litigation across the country, and courts have reached different conclusions on similar facts.

The Eleventh Circuit Court of Appeals is currently contemplating the appeal of a decision from a district court in Georgia that dismissed claims that the use of outdated mortality tables violated ERISA.[5] That impending decision from the Eleventh Circuit may give more guidance on how the courts of appeal will view this issue.

The Reichert case also presents questions about litigation strategy going forward. With a split decision from the panel, Defendants might be inclined to seek en banc review from the Sixth Circuit. Short of further appellate review, the cases are headed back to their respective district courts, for further proceedings on whether the actuarial assumptions in the plan were reasonable and consideration of class certification. As in many cases, the costs associated with discovery and litigation, and the risks of significant liability in a class action lawsuit, may prompt a settlement.

In either event, these risks and expenses to employers will certainly prompt additional putative class action lawsuits against employers whose plans contain outdated mortality tables. Plan Sponsors and fiduciaries should continue to monitor ongoing developments.

The Husch Blackwell Employee Benefits & Executive Compensation team and the ERISA & Employee Benefits Litigation team actively monitor such developments and are here to help with any of your benefit needs. We will continue to monitor these cases and provide updates as courts rule on dispositive motions. Please contact us if you have questions about your pension plan compliance or if you would like assistance reviewing your fiduciary processes.

[1] No. 24-1442, 2026 WL 734673 (6th Cir. Mar. 16, 2026).

[2] No. 4:25-CV-00096-CMS, 2026 WL 785044 (E.D. Mo. Mar. 20, 2026).

[3] The Defendants in Landel were represented by Husch Blackwell

[4] *Reichert v. Bakery, Confectionary, Tobacco Workers & Grain Millers Pension Comm.*, No. 2:23-CV-12343, 2024 WL 5410419 (E.D. Mich. Apr. 17, 2024) and *Covic v. FedEx Corp.*, 774 F. Supp. 3d 954 (W.D. Tenn. 2024).

[5] *William Drummond, et al. v. Southern Company Services, Inc., et al*, Case No. 24-12773.