

**Insights**

## **PLEADING STANDARDS FOR PROHIBITED TRANSACTION CLAIMS: WHAT IS NEXT?**

Jul 24, 2025

This column examines the circuit split on which pleading standard applies to prohibited transaction claims.

The Supreme Court has agreed to wade into the existing circuit split on the issue of which pleading standard applies to prohibited transaction claims under 29 U.S.C. Section 1106(a). On October 4, 2024, the Supreme Court granted certiorari in *Cunningham v. Cornell Univ.* [86 F.4th 961 (2d. Cir. 2023)], a Second Circuit case holding that a heightened pleading standard applies to prohibited transaction claims. The Second Circuit is consistent with the Third, Seventh, and Tenth Circuits, but it conflicts with the less stringent pleading standard articulated by the Eighth and Ninth Circuits.

[Read the article in Journal of Pension Benefits >](#)

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