

Insights

WHO IS LEFT STANDING? LAWSUITS OVER PRT TRANSACTIONS AFTER THOLE

THIS COLUMN ANALYZES THE DIFFERING OUTCOMES IN THE *KONYA* AND *CAMIREE* DEFINED BENEFIT CASES AS COURTS GRAPPLE WITH HOW TO INTERPRET *THOLE*.

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On March 28, 2025, district courts in *Camire v. Alcoa USA Corp., et al.* [2025 WL 947526 (D.D.C. Mar. 28, 2025)] and *Konya v. Lockheed Martin Corp.* [2025 WL 962066 (D. Md. Mar. 28, 2025)] reached opposite conclusions on the same day when considering the same issue:

Whether participants in defined benefit plans have standing to sue plan fiduciaries where those fiduciaries transferred pension plans to private annuities through a process known as “pension risk transfer” (PRT). While many practitioners of the Employee Retirement Income Security Act of 1974 (ERISA) representing plan fiduciaries have considered standing for participants in funded defined benefit plans a clear win following the Supreme Court’s decision in *Thole*, the *Konya* court casts that certainty in doubt.

To establish standing under Article III of the Constitution, a plaintiff must demonstrate: (1) that he or she suffered an injury in fact that is concrete, particularized, and actual or imminent; (2) that the injury was caused by the defendant; and (3) that the injury would likely be redressed by the requested judicial relief. [See *Lujan v. Defenders of Wildlife*, 504 U.S. 555, 560–561 (1992)]

THOLE V. U.S. BANK N.A.

In *Thole v. U.S. Bank N.A.* [590 U.S. 538 (2020)], the Supreme Court analyzed whether participants in a defined benefit pension plan had standing to sue plan fiduciaries when participants had not sustained any monetary injury (or received any less of their monthly pension benefit than that to which they were entitled under the plan) but still alleged those fiduciaries had made inappropriate investment decisions. The Court held that because the participants had received all their monthly benefit payments due, and the outcome of the lawsuit would not impact their future benefit payments in any way, the participants could not show a “concrete stake” as required to demonstrate Article III standing. [*Thole*, 590 U.S. at 541]

While the participants argued they possessed an equitable interest in the plan, the Court held the participants were not analogous to trust law beneficiaries or participants in a defined contribution plan because the “benefits paid to participants in a defined-benefit plan are not tied to the value of the plan.” [*Id.* at 543] The Court explained the defined benefit plan was more similar to a contract, and because alleged fiduciary mismanagement did not impact the performance of that contract, that is, the payment of benefits under the plan, the plaintiffs’ complaint did not plausibly and clearly claim that the alleged mismanagement of the plan substantially increased the risk that the plan and the employer would fail and be unable to pay the plaintiffs’ future pension benefits. [*Id.* at 546]

CAMIRE V. ALCOA USA CORP., ET AL.

Interpreting *Thole*, in *Camire v. Alcoa USA Corp. et al.*, the District Court for the District of Columbia analyzed whether participants in defined benefit pension plans had standing to pursue claims against alleged fiduciaries who attempted to mitigate the sponsoring employer’s exposure to risk from plan failure through PRT transactions, that is, transactions in which “an employer offloads all or part of its pension benefit obligations by purchasing [group annuity contracts] with plan assets from an insurer, who then assumes the responsibility of future benefit payments to employees and retirees covered by the transaction.” [*Camire*, 2025 WL 947526 at *1] Following the transfer of pension benefit obligations through a PRT transaction, plan participants lose their protections under ERISA and are covered only by a state guaranty association rather than the federal Pension Benefit Guaranty Corporation. [*Id.* at *2] DOL interpretive guidance indicates that fiduciaries should select “the safest annuity available,” yet the *Camire* plaintiffs alleged that the annuity provider the fiduciaries selected was not “the safest available option” and created a risk that participants would not receive the benefits to which they were entitled. [*Id.*]

Plaintiffs argued they suffered actual harm as a result of the PRT transactions because (1) the value of their benefits was degraded; (2) defendants failed to purchase the annuity that would “best promote their interests;” and (3) defendants’ misuse of plan assets harmed concrete interests protected by ERISA. [*Id.* at *3] Defendants argued that *Thole* precluded each of these arguments, and the *Camire* court agreed.

Analyzing *Thole*, the *Camire* court held that where no plaintiff alleged that he or she had received a lower benefit payment than before the PRT transactions, the plaintiffs did not have standing because they could not show an actual harm as required under Article III. [*Id.* at *4-5] While plaintiffs alleged the PRT transactions placed plan assets at risk of future insolvency, the court held that although *Thole* did not foreclose an argument based on future injury, because plaintiffs “failed to sufficiently allege a concrete, impending injury,” plaintiffs’ standing argument related to the risk of future harm similarly failed. [*Id.* at 6] Plaintiffs failed to include necessary allegations to demonstrate “an imminent risk of harm,” and because plaintiffs never alleged a substantial probability of harm (rather than a comparatively higher risk of harm with one annuity

provider versus another), they could not establish standing based on an increased risk of harm.

[*Id.* at 6-7]

KONYA V. LOCKHEED MARTIN CORP.

However, 40 miles away, the District Court of Maryland reached a different conclusion in *Konya v. Lockheed Martin Corp.* The *Konya* court reviewed essentially the same facts as the *Camire* court—participants in a defined benefit plan filed suit against plan fiduciaries over the transfer of pension plan assets and liabilities in PRT transactions with the same annuity provider at issue in *Camire*—but the *Konya* court focused on the specific risks posed by the annuity provider that plaintiffs outlined in their briefing. While plaintiffs acknowledged they had suffered no disruption in annuity payments prior to filing suit, plaintiffs argued the PRT transactions posed a high risk of imminent harm to plaintiffs' retirement annuities by including concrete examples of past annuity failures as well as specific criticisms of actions taken by (and lack of oversight over) the annuity provider. [*Konya*, 2025 WL 962066 at *8-9]

The court held that plaintiffs "eked out sufficient injury-in-fact to establish standing" based on plaintiffs' allegation of the substantially increased risk that the annuity would fail and would be unable to pay the plaintiffs' future benefits. [*Id.* at *9] The *Konya* court also went a step beyond *Camire*, holding that plaintiffs had further established standing due to allegations that the selection of the annuity provider was an independent breach of fiduciary duty. [*Id.* at *11-12] Adding an additional wrinkle to this analysis, the *Konya* court granted the plan fiduciaries' motion for interlocutory appeal. *Konya v. Lockheed Martin Corp.*, [Civ. No. 24-750-BAH, 2025 BL 255621 (D. Md. July 22, 2025)].

CONCLUSION

The *Konya* and *Camire* opinions show that two courts reviewing essentially the same set of facts can reach differing conclusions. Given the pervasiveness of PRT transactions as employers seek to avoid the risks posed by legacy defined benefit plans, it is likely that more courts will face the issues presented in these cases in the future. Until then, ERISA practitioners will have to wait and see who is left standing.

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