

# IBM Wins Dismissal of Pension Lawsuit

A lawsuit against IBM's pension plan will not proceed, following a judge's ruling in U.S. District Court for the Southern District of New York.

Reported by [NOAH ZUSS](#)

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*Updated with new information*

A federal judge in New York last week granted the motion to dismiss a lawsuit against IBM, tossing out with prejudice all four of the counts asserted by the plaintiffs.

Judge Nelson S. Roman on Thursday threw out the allegations—brought by IBM pension plan participants Joshua Knight, Michael Campbell, and Ernest Fabrizio—ruling the IBM Personal Pension Plan “statute of limitations is enforceable,” he wrote.

The lawsuit had argued IBM and the plan administrator committee violated provisions of ERISA when using outdated mortality assumptions when calculating joint and survivor benefits for participants. The case is *Joshua Knight et al. v International Business Machines et al.*

IBM reopened the frozen cash balance pension plan, in November.

Using outdated assumptions would continue to “result in a miscalculation of benefits wherein joint and survivor benefits are less than the actuarial equivalent value of a participant’s single life annuity benefit,” argued plaintiffs in an amended complaint.

Additionally, the lawsuit alleged IBM failed to disclose to participants that they would receive less than the actuarial equivalent value of their accrued, vested pension benefit if they selected a joint and survivor annuity.

The plaintiffs have 30 days to appeal after the order is entered on the court’s docket, according to the court documents.

Allegations of violations of the Employee Retirement Income Security Act—claims not asserting a breach of fiduciary duty—may be constrained by the statute of limitations set forth in a plan document as long as the statute of limitations is reasonable, wrote Roman.

“The parties did so here...the plan provides that ‘a claim or action to recover benefits allegedly due...with respect to the plan’ is untimely unless that claim is filed within two years of accrual,” wrote Roman, quoting from the IBM Plan and Pension Projection Statements.

“The complaint was dismissed based on statute-of-limitations grounds rather than on substantive grounds, so the case is of limited scope,” explains Drew Oringer, partner in and general counsel at the Wagner Law Group, which is not involved in the litigation.

The IBM plan typically calculates benefits as a single life annuity. ERISA also requires a qualified joint and survivor annuity as the default benefit for married participants.

Plan participant benefits are converted from a single life annuity to the various forms of joint and survivor annuities using interest rates and mortality tables to form the plan’s assumptions for calculating actuarial equivalence.

To calculate a participant’s expected benefit amount, the plan converts a participant’s single life annuity using the following assumptions: “8% interest and the Unisex Pension-1984 Mortality Table with a three-year setback for participants and a six-year setback for beneficiaries,” according to the amended complaint.

The Unisex Pension—1984 Mortality Table—is a mortality table created by the Committee on Self-Administered Retirement Plans from the Society of Actuaries in 1976, which was based on mortality experience data among non-insured private pensioners observed over the years 1965-1970, wrote Roman.

Following the initial lawsuit, which was filed in June 2022, the complainants filed the amended class action complaint in August 2022.

IBM filed the motion to dismiss in January 2023.

The IBM Personal Pension Plan comprises \$25.5 billion in retirement assets for 250,506 participants as of the last DOL Form 5500 filing.

Representatives of IBM did not respond to a request for comment nor did attorneys for the plaintiffs.

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**Tags**

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