

Retired UPS Workers File Lawsuit Against Federal Government for Approving Pension Cuts

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WASHINGTON, D.C. – Three retired UPS workers filed a lawsuit today against the federal government on behalf of themselves and a proposed class of approximately 22,000 other retirees. The suit alleges that the government acted to protect its own financial interests when it enabled a pension plan to cut each Plaintiffs' pension by 29%, reducing the likelihood that the government-run Pension Benefit Guaranty Corporation ("PBGC") would go insolvent. The suit revolves around the Department of Treasury's controversial decision from September 2017 to permit a New York pension fund to reduce each Plaintiff's monthly pension payment—an amount that had fully vested and for which the PBGC was the insurer if the fund defaulted.

According to one of the named plaintiffs, Bill King, "our employers, the unions, the pension fund, the U.S. government, and the bureaucratic experts all worked together to take away almost one third of the retirement funds that we earned through decades of hard work. We're hoping the U.S. Constitution will mean what it says and protect us from having our hard-earned pensions taken from us."

The lawsuit asserts that the government must compensate all of the plaintiffs for preventing them from accessing their own assets on the schedule to which they are contractually entitled to receive them. According to the Plaintiffs' counsel, Noah Messing: "Our clients' money is sitting in an account, earmarked for them, but the government has barred them from accessing it on the schedule to which they have a legal right to access it. This reduces the amount they get by 29% per month until they die." Karen Friedman, Executive Vice President of the Pension Rights Center, noted the historical significance of the cuts: "The law that authorized these outrageous cuts was unprecedented. It torpedoed sacrosanct provisions in federal legislation that for more than four decades had ensured that retirees' benefits would be fully protected."

Steve Dardzinski, another named Plaintiff, noted that he had invested more than two decades of his life working the night shift at UPS to earn his pension. "I gave up thousands of hours of precious time with my family to earn this pension, which was fully protected by the government's anti-cutback rule." The anti-cutback rule refers to a provision from a 1974 federal statute that prevented (until December 2014) any cuts to vested pensions. Dardzinski added, "Congress changed the law in 2014, without debate, after a whole bunch of lobbying from employers and certain unions. Like everyone I worked with, I was told over and over again that my pension couldn't be cut this way once I started to receive it and that it was guaranteed." Dardzinski states, "I counted on that income, which was backed up by both federal law and the pension plan's written documents."

As detailed in the complaint, the plaintiffs were participants in the New York State Teamsters Conference Pension and Retirement Fund, a pension fund set-up by employer sponsors in 1954, including UPS, to provide retirement benefits to employees. This fund filed an application in May 2017 with the Treasury Department to cut vested retiree benefits, retroactively, under the Kline-Miller Multi-Employer Pension Reform Act of 2014 (MPRA). MPRA was passed as part of a budget reconciliation act at the end of 2014 and not subject to normal and open debate

in the House or Senate. By changing federal laws that had existed for decades, MPRA authorized Treasury to approve retroactive cuts to defined benefit plans. Treasury approved the pension cuts affecting the plaintiffs in September 2017, and those cuts took effect the following month. The statute required approval of a majority of plan participants. Of the nearly 14,000 ballots cast, however, 71% voted to prohibit the proposed cuts. Treasury nonetheless concluded that the measure had passed.

According to Messing, “more than a billion dollars, paid in by plaintiffs and their employers over many decades, is sitting in the financial accounts of a pension plan established to provide retirement security to our clients. This case raises the question of whether the government can take it away from them—or let someone else do so.”

The case was filed against the federal government in the Court of Federal Claims in Washington, D.C., which has special jurisdiction to hear cases involving monetary claims against the United States. In addition to the named plaintiffs, more than seventy additional plaintiffs have signed up for the lawsuit and will be added to the case soon. The plaintiffs will ask the court to authorize an opt-in class action for similarly situated participants in the plan and facilitate communication with the entire potential class.

Since MPRA was enacted, the government has approved pension cuts at five multi-employer plans. In addition to the Plaintiffs’ fund which is based in New York, funds in Ohio, Michigan, Tennessee and Alaska have been cut with some retirees suffering cuts of more than 50%. The plaintiffs’ fund is the largest to have cuts approved to date. Estimates suggest that more than 100 pension plans covering approximately 1.3 million blue collar workers could be subject to retroactive cuts under MPRA. In February of this year, Congress established the Joint Select Committee on Solvency of Multiemployer Pension Plans with the mandate to provide draft legislation to “significantly improve the solvency of multiemployer pension plans and the Pension Benefit Guaranty Corporation” by the end of November this year. In the meantime, workers like the plaintiffs remain either in jeopardy or at risk of losing their pension benefits to MPRA cuts.

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