

# Seventh Circuit Holds Withdrawal Liability Cannot Be “Decelerated”

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The Seventh Circuit held that a multiemployer pension fund’s withdrawal liability claim was barred by the six-year statute of limitations applicable to claims under the Multiemployer Pension Plan Amendments Act (MPPAA). After the employer failed to make several quarterly withdrawal liability payments, the fund declared the employer to be in default, accelerated its withdrawal liability, and filed suit in 2008 to collect the accelerated amount. Shortly thereafter, the parties entered into a settlement pursuant to which the employer cured the default and agreed to resume making quarterly payments. The employer defaulted on its obligation multiple times over the course of several years and in each case entered into a settlement to resume making quarterly payments. The last time the employer defaulted, the fund sued seeking the withdrawal liability owed based on the most recent settlement agreement. The employer argued that the claim was time-barred because it began to accrue in 2008 when the fund first accelerated the employer’s withdrawal liability, and not when the employer breached the subsequent settlement agreements. The district court agreed and the Seventh Circuit affirmed. In so holding, the Seventh Circuit rejected the fund’s argument that it could “decelerate” an employer’s withdrawal liability as there was no basis under the MPPAA for doing so. The Court also commented that its ruling did not affect the fund’s right to file a state law claim for breach of the settlement agreements. The case is *Bauwens v. Revcon Technology Group, Inc.*, No. 18-3306, 2019 WL 3797983 (7th Cir. 2019).

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