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# Proskauer Prevails Before D.C. Circuit Court on Behalf of IAM National Pension Fund

**February 23, 2024**

**NEW YORK and WASHINGTON, D.C., February 23, 2024 –** Proskauer, a leading international law firm, announced today that it obtained a significant victory before the D.C. Circuit on behalf of the IAM National Pension Fund ("IAM" or "the Fund"), thereby preserving the Fund's rights to collect over $6.7 million in withdrawal liability owed to it. The Fund provides pension benefits to over 250,000 retired machinists and their dependents.

In 2018, four of the Fund's contributing employers permanently ceased to have an obligation to contribute to the Fund. IAM demanded that the employers pay a cumulative total of $9.94 million in withdrawal liability, representing their proportionate share of the Fund's unfunded vested benefits.

As a result, the employers commenced arbitration to challenge the assessments, arguing that the Fund should have calculated their withdrawal liability using the assumptions in effect at the end of the year prior to their withdrawals rather than the assumptions subsequently adopted.

In 2021, arbitrators agreed with all four employers and ordered the Fund to recalculate their withdrawal liability using the prior assumptions, as a result of which, the employers' liability was reduced by approximately two-thirds. However, in September 2022, a federal district court judge in Washington, D.C., vacated the first of those arbitration decisions, and less than six months later, another vacated the other three arbitration decisions. The courts held that there was nothing in the governing statutes, regulations or case law that prevented the Fund from using assumptions adopted after the original "measurement date" to calculate the employers' withdrawal liability, so long as the assumptions were based on information available to the actuary as of the measurement date.

On February 9, 2024, the D.C. Circuit affirmed the district courts' decisions. The D.C. Circuit rejected the Second Circuit's decision in *National Retirement Fund v. Metz Culinary Management*, 946 F.3d 146 (2d Cir. 2020), which had concluded that an actuary fund could not calculate withdrawal liability using assumptions it adopted after the measurement date. The D.C. Circuit held there was no support for the Second Circuit's ruling that there was a deadline by which an actuary must adopt its assumptions, and that the Second Circuit's reasons for imposing a strict deadline were unsound. In so ruling, the D.C. Circuit created a Circuit split on the issue.

The appeal was argued by partner John Roberts (Commercial Litigation), with associates Neil Shah (ERISA) and Lucas Kowalczyk (Commercial Litigation) on the brief. The Proskauer team also included partners Myron Rumeld and Anthony Cacace and associate Anastasia Gellman (ERISA).

**About Proskauer**

The world's leading organizations and global players choose Proskauer to represent them when they need it the most. With 800+ lawyers in key financial centers around the world, we are known for our pragmatic and commercial approach. Proskauer is the place to turn when a matter is complex, innovative and game-changing. We work seamlessly across practices, industries and jurisdictions with asset managers, private equity and venture capital firms, Fortune 500 and FTSE companies, major sports leagues, entertainment industry legends and other industry-redefining companies.

With top-tier litigation and labor & employment practices, Proskauer lawyers are at the cutting edge of contentious matters with extensive trial experience in virtually every major forum across the globe and winning make-or-break cases, changing laws, and establishing precedents.

Proskauer offers a full suite of services for the investment management industry, with a market-leading global team dedicated solely to advising investment funds, private equity, hedge funds and other asset managers, financial institutions, and institutional investors across all asset classes. The cross-border team of over 200 lawyers is based in the U.S., UK and Latin America and includes specialists in tax, ERISA, regulation, financial services, capital markets, M&A, employment, insurance, fund finance, litigation and risk management who understand the unique technical and commercial issues relevant to investment managers.

## Related Professionals

- **John E. Roberts**
  Partner
- **Neil V. Shah**
  Senior Counsel
- **Lucas Kowalczyk**
  Senior Counsel
- **Anthony S. Cacace**
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