Appellate Court Finds Transfer of Interest under ERISA Successor Liability Test

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A company that was managed by the owner?ÃÃs son went out of business while it was behind on payments to a multiemployer pension plan.?Ã¡ The son then launched two new businesses. The first entity bought some of the equipment from the company, while the second entity serviced the company?ÃÃs former customers using the company?ÃÃs former equipment that it leased from the first entity.?Ã¡ The pension plan sought to collect the overdue payments from the two new entities under ERISA?ÃÃs successor liability provisions.?Ã¡ The U.S. Court of Appeals for the Seventh Circuit affirmed the district court?ÃÃs application of ERISA?ÃÃs two-pronged successor liability test, finding that successor liability attaches if (1) the successor had notice of the claim before the acquisition and (2) there is substantial continuity of operation of the business before and after the sale. *Sullivan v. Running Waters Irrigation, Inc.*, No. 13-1308 (7th Cir. Jan. 9, 2014).

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