

Court Rejects Equitable Exception to Interim Withdrawal Liability Payments

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A multiemployer pension plan assessed withdrawal liability against an employer after it ceased participating in the plan. The employer made just one withdrawal liability payment and then initiated arbitration to challenge the assessment. A federal district court recently ruled that ERISA’s “pay now, dispute later” statutory withdrawal liability rules plainly required the employer to continue making payments, even while the arbitration was pending. The court refused to apply an equitable exception adopted in the 5th and 7th Circuit Courts of Appeal, which excuses withdrawal liability payments while an employer challenges its liability if the employer can show (i) severe undue hardship and (ii) the withdrawal liability claim is frivolous, because the exception had not been adopted in its circuit, the 3rd Circuit; the employer could not show the claim was frivolous; and the 3rd Circuit has said undue hardship alone is not grounds to support any such exception. *Nat’l Integrated Group Pension Plan v. Black Millwork Co.*, Civ. No. 2:11-5072 (KM) (D.N.J. Aug. 1, 2013).