



RETIREE HEALTH

For many years, employers throughout the United States have been cutting or eliminating important retiree health benefits they had promised to retiring workers, some of whom stopped working decades ago.

A good description of what companies have been doing to enrich their executives and stockholders at the expense of hard-working Americans appears in a popular book by Ellen E. Schultz, an award-winning investigative reporter from the Wall Street Journal, entitled Retirement Heist – How Companies Plunder and Profit from the Nest Eggs of American Workers, (pp. 160-176).

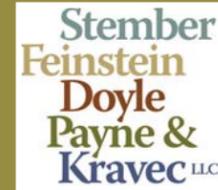
While court decisions recently have been pro-company and anti-retiree where non-union retiree health benefits are cut, union retirees have frequently been successful. The firm's attorneys have been involved in more than 80 of these class action lawsuits, often with the support of the unions that originally negotiated these benefits (such as the United Steelworkers and the UAW). This year saw Bill Payne, Stephen Pincus, Jon Cohn and Pamina Ewing prevail in a lawsuit on behalf of a class of 45 elderly retirees from Pulaski, Tennessee, who had worked under hazardous conditions in a rubber factory owned by the Pulaski Rubber Company.

Judge Sharp determined that the retirees and surviving spouses were entitled to lifetime benefits, declaring: "Given the context in which labor negotiations occur, it is almost axiomatic that employees who forego wages now for the promise of retiree benefits in the future do so with the expectation that those benefits will continue through retirement." Judge Sharp further stated this was because these benefits are "typically understood as a form of delayed compensation or reward for past services."

The battle to restore benefits for the Pulaski retirees is not over because the company was an insolvent subsidiary corporation. Judge Sharp has ordered a trial as to whether the parent corporation should also be held liable.

PRACTICE AREAS

- Civil Rights
- Class Action
- Consumer Protection
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Resolutions 2013

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We are progressive in outlook and aggressive in our pursuit of clients' rights. Whether representing individuals or classes, we work hard, using our heads and our hearts to get the best results.

Contact us to discuss your legal questions.

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Stember Feinstein Secures Religious Freedom for Rabbi

CIVIL RIGHTS LAWSUIT CHALLENGED ENFORCEMENT OF PENNSYLVANIA FUNERAL DIRECTOR LAW AGAINST CLERGY

On December 17, 2012, Stephen Pincus, a Partner with Stember Feinstein, announced the settlement of a civil rights lawsuit against the Commonwealth of Pennsylvania.

This important settlement guarantees that religious groups who perform ceremonies, customs, rites or practices are excluded from the definition of "funeral director" under Pennsylvania law.

The firm represented Rabbi Daniel Wasserman of the Shaare Torah Congregation in Pittsburgh. In 2009, after the Rabbi had conducted a religious burial, a commercial funeral director accused

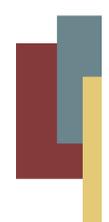
him of breaking Pennsylvania state law and reported him to the State Board of Funeral Directors. This report started an investigation of the Rabbi by the Pennsylvania Bureau of Enforcement and Investigation, accusing him of "practicing as a funeral director without a license."

After the Rabbi performed funerals for other members of his congregation in 2010 and 2011, Funeral Directors made additional complaints. As a result of these complaints, the Rabbi was under investigation for a total of 28 months. In August 2012, the firm filed a lawsuit against the Commonwealth of Pennsylvania for

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Settlement in 401(k) Plan Fiduciary Breach Class Action

This Fall, a federal judge in Memphis, Tennessee approved a \$6 million settlement in a class action to recover losses to a 401(k) pension plan operated by First Horizon Corporation, a Tennessee based bank holding company.

Plan participants, represented by a team of SFDPK lawyers, challenged the judgment of the selection of investment options by the plan fiduciaries (supervisors) available for the employee contributions. The largest investment in the plan was in First Horizon stock.

The lawsuit claimed that the pension participants suffered crushing losses in their accounts as investors learned more about the company's significant financial problems and that the fiduciaries knew or should have known the risks of the losses before they occurred. Plan participants also challenged the wisdom of investment in First Horizon's wholly owned proprietary mutual funds, which eventually were eliminated because, as one First Horizon official told a newspaper reporter, the management of the funds was outside First Horizon's competencies.

The First Horizon settlement is one of many recoveries to 401(k) plans that SFDPK partner Ellen Doyle has negotiated over the last twelve years. While recent decisions in some jurisdictions have made these cases much more difficult to pursue, the firm is committed to enforcing the federal pension laws to ensure that fiduciaries entrusted with millions of dollars in pension assets make reasonable and prudent investment decisions.

WARNING TO CLIENTS

Beware what you post on Facebook and other social media sites. What you say and do may be used against you in a court of law. Please think before you post.

It is routine in many lawsuits for adversaries to search for Facebook or other social media accounts and to ask for password information so that they may obtain everything you have posted. These online investigations may prove that the reason you were late to work several days in a row was not because your mother was sick, but because you were out partying. Or they may show photos or statements that conflict with the facts that support your claims. Many people posting online think that if they delete their information it will not be found. That is not usually the case. There are archives kept of prior postings which can be obtained during litigation.

A few states have been more active in protecting the privacy of online posters. Plus, the National Labor Relations Board has issued guidance permitting employees to communicate with other employees about the terms and conditions of their employment.

We have many friends, relatives and clients who love their social media accounts and use them as a major part of their social lives. Our advice is to assume that what you post will be available forever for others to use against you.

Religious Freedom for Rabbi (from p. 1)

violating the Rabbi's civil rights under the First and Fourteenth Amendments of the United States Constitution and also under Article I of the Pennsylvania Constitution.

The settlement provides that the Pennsylvania State Board of Funeral Directors must notify all licensed funeral directors and interested parties about the new rules. In addition, the Pennsylvania Board of Professional and Occupational Affairs must train its attorneys, paralegals and investigators so they do not violate the First Amendment and Pennsylvania Constitutional rights of those who perform religious burials.

"This settlement will have the important

consequence of lifting the threat of investigation that has hung over the heads of Pennsylvania religious leaders of all faiths," said Mr. Pincus. "This was a matter worth pursuing, not simply on the Rabbi's behalf, but on behalf of the members of every temple, meeting, mosque or other religious congregations who are entitled to be buried as their religious beliefs dictate."



Stephen M. Pincus

Stember Feinstein Wins First Sexual Orientation Discrimination Hearing Before the Allegheny County Human Relations Commission

Workplace discrimination based on sexual orientation is not prohibited by Pennsylvania or Federal Law. Pennsylvania does have some jurisdictions, including the City of Pittsburgh and Allegheny County, that do have laws to protect the rights of gays and lesbians in the workplace.

The newly established Commission's investigation was delayed while it developed its operating procedures. Finally, in July 2012, the Commission conducted a hearing on the matter.

On July 1, 2009, Allegheny County Council enacted Ordinance No. 26-09-OR, which established the Human Relations Commission of Allegheny County (www.alleghenycounty.us/HRC/index.aspx).

The Human Relations Commission states that its mission is "to assure that all persons, regardless of race, color, religion, national original, ancestry or place of birth, sex, gender identity or expression, sexual orientation, disability, marital status, familial status, age or use of a guide or support animal because of blindness, deafness or physical disability, enjoy the full benefits of citizenship and are afforded equal opportunities for employment, housing and use of public accommodation facilities."

The Commission found that it was reasonable for the employee to resign from his job because of his supervisor's behavior to compensate the employee for lost income and emotional distress.

In early 2010, Stephen Pincus filed a lawsuit with the Allegheny County Human Relations Commission claiming that his client had been forced to resign from his

