

CLIENT BULLETIN

2,473,132 Rea\$on\$ For Multiemployer Pension Plans To Review Their Reciprocity Agreements And Practices

In [Client Bulletin 2014-49](#), we reported on the case of *Lehman v. Trustees of the IBEW Pacific Coast Pension Plan*, U.S. District Court of Washington, Western District, Cause Number C13-1835, available by "[clicking here](#)."

In that case, the District Court granted summary judgment to a "traveler's" claim that an "Away" multiemployer pension fund that withheld the first dollar an hour of employer contributions for "funding improvement purposes" violated the terms of the Plan, the reciprocity agreement applicable to the "traveler" and the *Employee Retirement Income Security Act of 1974 (ERISA)*. The case was certified as a "class action" and included any other "travelers" affected by the Away Fund's withholding practices.

In response to their victory, the plaintiffs filed [motion for damages](#) and the District Court [granted the motion](#) awarding the plaintiff class \$2,473,132.77 as of February 28, 2015, which represents: (1) \$1,911,116.49 in pension contributions made on plaintiffs' behalf that were wrongfully withheld by the "Away" plan defendants, and (2) \$562,016.28 in earnings thereon, based on the "Away" plans reported annual rates of return from 2008 through February 2015.

In addition, the plaintiff's were granted leave to file a request for attorney's fees.

It is important to note that the case does not automatically prohibit any withholding of reciprocity contributions by an "Away" fund. Rather, the ability to withhold any "funding contributions" or such is dependent on the terms of the plan documents and reciprocity agreements. In light of this case, it seems that a review of a pension plan's reciprocity agreements and the administration thereof would be a "prudent" course of action for Trustees to take. Fund professionals can help review reciprocal agreement language, as well as confirm if the plan's reciprocity program is operated according to the terms of the reciprocal agreement and of the plan. The *Lehman* case provides a handy roadmap to use in such a review.

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