

THE DAILY RECORD

LAW, REAL ESTATE, FINANCE AND GENERAL INTELLIGENCE SINCE 1908

Retirees' Health Insurance Claims To Proceed

BY DEBORAH A. FAUVER, ESQ.
DAILY RECORD REPORTER

Did the recent reduction of retirees' healthcare benefits in the Town of Irondequoit breach a contract established by the 1978 personnel manual, or violate the Age Discrimination in Employment Act, the Civil Rights Act, the New York Human Rights Law, or the New York Constitution?

Reviewing cross motions for summary judgment in *Hubert C. Lawrence, et al. v. Town of Irondequoit, et al.*, the U.S. District Court for the Western District of New York found that the plaintiff employees' ADEA and state law claims warrant further factual development, and that class certification, while not yet proper, may become so upon submission of further evidence.

But District Court Chief Judge David G. Larimer granted summary judgment for the town on plaintiffs' claims under 42 U.S.C. § 1983, the New York Human Rights Law, the New York Constitution, and state law on fraud and misrepresentation.

Background

Plaintiffs are four retired town employees, each with over 30 years of work history with the Town of Irondequoit. They brought this action on their own behalf, and also proposed certifying a class including themselves and 29 other retired town employees.

In 1978, the town adopted a personnel manual providing health insurance benefit coverage for all retired employees; plaintiffs argue that the manual established lifetime coverage under a comprehensive plan, the Blue Cross/ Blue Shield Million Plan.

Up until 2001, the town provided Blue Million Plan coverage for retired employees, but that year, allegedly as part of a series of cost cutting measures, the town switched retirees to HMO coverage with Blue Choice. Only retirees who were over 80 years old at the time of the change were left on the Blue Million Plan.

Due Process

In reviewing this claim, Judge Larimer assumed, without deciding, that the personnel manual created an obligation by the town to provide retirees with fully paid Blue Million Plan coverage for life, and that the benefits offered by the new Blue Choice plan were inferior to the Blue Million Plan.

"[T]he issue to be decided is whether a reduction in health care benefits to a retired employee, whose right to receive such benefits arises from a contract and has vested, constitutes a violation of constitutionally protected property interest that cannot be deprived without due process of law," Judge Larimer wrote. "In my view, the Constitution provides no remedy under these circumstances."

Plaintiffs had submitted affidavits stating that they were particularly dependent on the Blue Million Plan level of health insurance benefits; but Judge Larimer found that their dependence did not rise to the level of a constitutionally protected property interest.



CHIEF JUDGE
DAVID G. LARIMER

WHAT THE COURT RULED

Hubert C. Lawrence, et al. v. Town of Irondequoit, et al., U.S. District Court
Western District of New York

INDEX NO.: 01-CV-6306

ISSUE: May a town decrease long-standing health insurance benefits provided to already retired employees?

RULING: Since the benefit change may have been a breach of contract, and may violate the Age Discrimination in Employment Act, both issues are set for further proceedings.

ATTORNEY FOR PLAINTIFF: J. Nelson Thomas, Esq.

ATTORNEY FOR DEFENDANTS: Lisa Soffern, Esq.

"In my view, plaintiffs' interest in receiving a specified level of retirement health care benefits paid for by the town 'is qualitatively different from the interests the Supreme Court has thus far viewed as "property" entitled to procedural due process protection,'" Judge Larimer wrote, quoting *S&D Maintenance Co. v. Goldin*, 844 F.2d 962 (2nd Cir. 1988).

"Rather, procedural protection is sought in connection with a state's revocation of a status, an estate within the public sphere characterized by a quality of either extreme dependence in the case of welfare benefits, or permanence in the case of tenure, or sometimes both, as frequently occurs in the case of social security benefits," Judge Larimer wrote, again quoting *S&D*.

ADEA and NYHRL Claims

Claims for disability discrimination

Continued ...