No.: _____

In the
Supreme Court of the United States

ROBERT CARLISLE, individually and as a representative of a class of similarly situated persons, on behalf of the NEW YORK STATE TEAMSTERS CONFERENCE PENSION AND RETIREMENT FUND,
Petitioner-Appellant,

v.

THE BOARD OF TRUSTEES OF THE AMERICAN FEDERATION OF THE NEW YORK STATE TEAMSTERS CONFERENCE PENSION AND RETIREMENT FUND; JOHN BULGARO; BRIAN K. HAMMOND; PAUL A. MARKWITZ; GEORGE F. HARRIGAN; MARK D. MAY; MICHAEL S. SCALZO, SR., ROBERT SCHAEFFER; MARK GLADFELTER; SAMUEL D. PILGER' DANIEL W. SCHMIDT; TOM J. VENTURA; MEKETA INVESTMENT GROUP, INC., and HORIZON ACTUARIAL SERVICES, LLC,
Respondents-Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Second Circuit

PETITION FOR WRIT OF CERTIORARI

STEVEN A. SCHWARTZ
CHIMICLES SCHWARTZ KRINER & DONALDSON-SMITH LLP
361 West Lancaster Avenue
Haverford, Pennsylvania 19041
(610) 642-8500
sas@chimicles.com

Counsel of Record

ROBERT J. KRINER
CHIMICLES SCHWARTZ KRINER & DONALDSON-SMITH LLP
2711 Centreville Road, Suite 201
Wilmington, Delaware 19808
(302) 656-2500
rjk@chimicles.com

Counsel for Petitioners

Dated: February 11, 2026

QUESTION PRESENTED

Under the Employee Retirement Income Security Act of 1974 (ERISA), a Fund fiduciary is subject to a "[p]rudent man standard of care," which requires the fiduciary to "discharge his duties with respect to a [Fund]" with the "care, skill, prudence, and diligence" that a prudent person "acting in a like capacity and familiar with such matters would use." 29 U.S.C. § 1104(a)(1)). As this Court has recognized, a court's inquiry into whether a plaintiff has adequately alleged that a fiduciary breached ERISA's duty of prudence "will necessarily be context specific" because the content of that duty "turns on 'the circumstances … prevailing' at the time the fiduciary acts." Fifth Third Bancorp. v. Dudenhoeffer, 573 U.S. 409, 425 (2014) (quoting 29 U.S.C. § 1104(a)(1)(B)). As a result, "categorical" pleading rules are "inconsistent with the context-specific inquiry that ERISA requires." Hughes v. Nw. Univ., 595 U.S. 170, 173 (2022).

The question presented is: Whether, for claims predicated on the underperformance of a defined benefit pension plan's investments that lead to cuts of plan participants' vested pension benefits, pleading that an ERISA fiduciary failed to use the requisite "care, skill, prudence, or diligence" under the circumstances and thus breached ERISA's duty of prudence when making an aggressively-risky asset allocation decision on plan investment assets requires alleging a "meaningful benchmark," and if so, what constitutes the required benchmark for pleading purposes.

PARTIES TO THE PROCEEDING

Petitioner Robert Carlisle was the plaintiff-appellant below. Respondents Board of Trustees of the New York State Teamsters Conference Pension and Retirement Fund (the "Teamsters Fund" or "Teamsters Board"); John Bulgaro; Brian Hammond; Paul Markwitz; George Harrigan; Mark May; Michael Scalzo, Sr.; Robert Schaeffer; Mark Gladfelter; Samuel Pilger; Daniel Schmidt; and Tom Ventura (collectively, the "Teamsters Trustees"); Meketa Investment Group, Inc.; and Horizon Actuarial Services, LLC; were defendants-appellees below.

CORPORATE DISCLOSURE STATEMENT

Pursuant to Supreme Court Rule 29.6, Petitioner Robert Carlisle discloses he is an individual proceeding in his individual capacity and there are zero corporate interests with respect to Petitioner.

RELATED PROCEEDINGS

This case has not been before this Court previously, and Plaintiff is unaware of any other case or proceeding that is related or about to be presented before this Court or any other court or agency.

TABLE OF CONTENTS

Page

QUESTION PRESENTED i
PARTIES TO THE PROCEEDING ii
CORPORATE DISCLOSURE STATEMENT iii
RELATED PROCEEDINGS iv
TABLE OF CONTENTS v
TABLE OF AUTHORITIES viii
TABLE OF APPENDIX xi
INTRODUCTION 1
OPINIONS BELOW 8
JURISDICTION 8
CONSTITUTIONAL AND STATUTORY PROVISIONS 8
STATEMENT 9
I. Statutory Background 9
II. Factual Background 11
A. The Teamsters Pension Fund Faced a Funding Shortfall 11
B. The Teamsters Trustees Imprudently Engaged Meketa in a Dual, Conflicted Role that Incentivized Meketa to Recommend that the Trustees Take Excessive Investment Risks and Tainted the Trustees' Decision-Making Process 12
C. The Trustees and Meketa Imprudently Allocated Over 50% of Teamsters Fund Assets to the Highest-Risk Asset Classes 13
D. Defendants' Bet-The-House Investment Gamble Made the Teamsters Fund an

Extreme Outlier Compared to its Taft-Hartley Peers 14
E. The Teamsters Trustees Knew the Risks of Their Outsized, Imprudent Gamble 16
F. The Teamsters Fund Lost Hundreds of Millions of Dollars Due to Defendants' Imprudent Asset Allocation 18
G. The Bet-The-House Gamble Failed, But Defendants Nonetheless Maintained It 19
H. Due to the Losses Caused by their Imprudent Asset Allocation, the Teamsters Trustees Cut Fund Participants' Vested Pension Benefits by 19% to 29% 20
III. Procedural History 21
REASONS FOR GRANTING THE PETITION 23
I. THE COURT SHOULD GRANT PLENARY REVIEW OF THIS PETITION AND CONSIDER IT IN TANDEM WITH ANDERSON v. INTEL TO ADDRESS THE VALIDITY AND PARAMETERS OF A "MEANINGFUL BENCHMARK" AND IMPRUDENT INVESTMENT PROCESS REQUIREMENTS IN ERISA DUTY-OF-PRUDENCE CASES 23
A. The Courts of Appeals are Divided on the Requirements to Plead a Violation of Erisa's Duty of Prudence Based on Investment Decision-Making 25
B. The Second Circuit's Decision Conflicts with Parker-Hannifin 26

C. The Second Circuit's Decision Conflicts with the Ninth Circuit's Decisions In *Anderson v. Intel* and *California Ironworkers* 28
D. The Second Circuit's Decision Conflicts with District Court Decisions..... 30
E. This Case Presents a Robust Complaint that Provides the Court with an Appropriate Vehicle to Address Significant Issues Regarding Pleading an ERISA Prudence Claim that are not Present in *Anderson v. Intel*..... 31
CONCLUSION..... 34

TABLE OF AUTHORITIES

Cases *Page*

Anderson et al. v. Intel Corp. Investment Policy Committee, et al., 137 F.4th 1015 (9th Cir. 2025), *cert. granted*, 2026 WL 120679 (U.S. Jan. 16, 2026) ..... *passim*

Anderson v. Intel, 137 F.4th at 717, 1024-1025 ..... *passim*

California Ironworkers Field Pension Trust v. Loomis Sayles & Co., 259 F.3d 1036 (9th Cir. 2001) ..... *passim*

Fifth Third Bancorp. v. Dudenhoeffer, 573 U.S. 409 (2014) ..... i, 5, 9, 10

Hughes v. Nw. Univ., 595 U.S. 170 (2022) ..... *passim*

Johnson v. Parker-Hannifin Corp., 122 F.4th 205 (6th Cir. 2024) ..... *passim*

Johnson v. Parker-Hannifin Corp., No. 1:21-cv-00256, 2023 WL 8374525 (N.D. Ohio Dec. 4, 2023) 26

Massachusetts v. Morash, 490 U.S. 107 (1989) 9

Mertens v. Hewitt Assocs., 508 U.S. 248 (1993) 10

Nachman Corp. v. Pension Benefit Guar. Corp.,
446 U.S. 359 (1980)..... 9

Parker-Hannifin Corp. v. Johnson,
145 S. Ct. 2842 (2025).....*passim*

Shaw v. Delta Air Lines, Inc.,
463 U.S. 85 (1983)..... 9

Snitzer v. Board of Trustees of the American Federation of Musicians, et al.,
No. 1:17-cv-5361 (S.D.N.Y.)..... 30

Pension Benefit Guaranty Corp. ex rel. St. Vincent Catholic Medical Centers Retirement Plan v. Morgan Stanley Inv. Mgmt. Inc.,
712 F.3d 705 (2d Cir. 2013) 6, 25

Stegemann v. Gannett Co.,
970 F.3d 465 (4th Cir. 2020)..... 10

Tibble v. Edison International,
575 U.S. 523 (2015).....*passim*

Statutes

28 U.S.C. § 1254(1)..... 8

29 U.S.C. § 1001(a)..... 9

29 U.S.C. § 1001 *et seq.*..... 8

29 U.S.C. § 1002(38)..... 12

29 U.S.C. § 1104(a)(1) i

29 U.S.C. § 1104(a)(1)(B) ..... *passim*

Pub. L. 117-2 2

Pub. L. No. 93-406, 88 Stat. 829..... 2, 8

Other Authorities

Fed. R. Civ. P. 12..... 21

Fed. R. Civ. P. 12(b)(6)..... 21

TABLE OF APPENDIX

Page

Appendix A. United States Court of Appeals for the Second Circuit Summary Order, *Carlisle v. Bd. Of Trs. of the Am. Fed'n of the N.Y. State Teamsters Conf. Pension and Ret. Fund,* dated November 21, 2025 ..... 1a-13a

Appendix B. United States District Court Northern District of New York Memorandum-Decision and Order, *Carlisle v. Bd. Of Trs. of the Am. Fed'n of the N.Y. State Teamsters Conf. Pension and Ret. Fund*, dated February 7, 2025 ..... 14a-104a

Appendix C. United States District Court for the Southern District of New York Class Action Complaint, *Carlisle v. Bd. Of Trs. of the Am. Fed'n of the N.Y. State Teamsters Conf. Pension and Ret. Fund*, dated October 1, 2020 ..... 105a-200a

Appendix D. United States District Court for the District of Columbia Complaint for Erisa Violations, *Perez v. Roach et al.,* dated January 24, 2016..... 201a-238a

Appendix E. United States District Court Southern District of New York Transcript, *Snitzer v. Bd. Of Trs. of the Am. Fed'n of Musicians and Employers' Pension Fund,* held on April 26, 2018..... 239a-276a

Appendix F. 29 U.S.C. 1104(a)(1) Statute 277a

PETITION FOR A WRIT OF CERTIORARI

INTRODUCTION

This case presents important questions regarding the requirements for pleading a violation of the Employee Retirement Income Security Act of 1974 ("ERISA") with respect to defined benefit pension Funds. The questions presented are similar to the questions raised in another ERISA case where this Court granted a petition for certiorari (*see Anderson et al. v. Intel Corp. Investment Policy Committee, et al.,* 137 F.4th 1015 (9th Cir. 2025), *cert. granted*, 2026 WL 120679 (U.S. Jan. 16, 2026) (No.25-498)) and another ERISA case where, in connection with the petition for certiorari, this Court invited the Solicitor General to submit a brief. *See Parker-Hannifin Corp. v. Johnson*, 145 S. Ct. 2842 (2025) (mem.). Those petitions reflect continuing Circuit splits regarding the requirements for pleading a plausible ERISA claim based on the relative underperformance of a pension fund's investment portfolio. *See Parker-Hannifin* Pet. at 11; *Anderson v. Intel* Pet. at 2, 13. The Sixth Circuit held that ERISA does not impose any "meaningful benchmark" threshold pleading requirement for claims that a fiduciary breached ERISA's duty of prudence by imprudently investing fund assets. *Johnson v. Parker-Hannifin Corp.*, 122 F.4th 205, 216 (6th Cir. 2024). In contrast, in *Anderson v. Intel*, the Ninth Circuit not only held that ERISA imposes a categorical requirement to plead a meaningful benchmark, but also went so far as to hold that, where the basis of the claim is that the fiduciaries acted so unusually that no similar fund

exists, the "meaningful benchmark" requirement bars the claim. 137 F.4th 1015, 1023-25 (9th Cir. 2025). The Second Circuit's ruling upholding the dismissal of the Complaint here is inconsistent not only with both *Anderson v. Intel* and *Parker-Hannifin* but also with decisions by this Court and another decision by the Ninth Circuit, *California Ironworkers Field Pension Trust v. Loomis Sayles & Co.,* 259 F.3d 1036, 1044-1045 (9th Cir. 2001).

ERISA requires fiduciaries to manage employee retirement Funds prudently. Throughout the country, fiduciaries of defined benefit pension plans[1] have failed in this basic obligation, and as a result, the United States spent almost $100 billion of taxpayer money to bail out underfunded defined benefit pension plans pursuant to the American Rescue Fund Act of 2021, Pub. L. No. 117-2 ("ARPA"), including over $1 billion to bail out the New York State Teamsters Conference Pension and Retirement Fund.

The billion-dollar bailout of the Teamsters Fund was necessary because the Teamsters Trustees and their conflicted advisor Meketa breached their fiduciary duties in two egregious ways that placed the Teamsters Fund on the brink of insolvency.

First, the Teamsters Trustees and Fund fiduciary Meketa invested over 50% of the Fund's assets in the highest risk asset classes – emerging market equities, private equity, and other alternative private market investments – to chase an excessive target investment

[1] Unlike the defined benefit plan here, *Parker-Hannifin* and *Anderson* involved defined contribution plans.

return. The gamble also required the Fund to decrease its domestic equity allocation to a minuscule 18% during a raging bull market. App. 111a, 138a-139a, 142a-143a (¶¶ 10, 59-61, 66-67).[2] The Teamsters Trustees and Meketa lost their bet and cost the Fund hundreds of millions of dollars. These imprudent asset allocations were extreme outliers compared to the Teamsters Fund's Taft-Hartley peers, which Meketa advised was the best benchmark for evaluating the Fund's investment performance. Meketa also advised the Teamsters Trustees that these outlier allocations were the specific reason why the Teamsters Fund's investment returns lagged the returns of the Teamsters Fund's Taft-Hartley peers. Defendants persisted in their losing, high-risk asset allocation bet for over a decade, leading to massive cuts (between 19%-29%) of Fund participants' *vested* pension benefits in 2017.

Second, the Trustees' and Meketa's imprudent gamble was the result of a grossly-imprudent process riddled with structural conflicts and divided loyalties. The Trustees hired and relied upon Meketa in the dual conflicted role as the Fund's independent investment advisor and private markets manager, resulting in Meketa's annual compensation soaring from $250,000 to $1.4 million, thereby creating an improper incentive for Meketa to recommend making and maintaining the outsized emerging markets and private markets allocations. Under similar circumstances, the United States Department of

[2] Unless otherwise indicated, references to "¶" are to paragraphs of the Class Action Complaint, reproduced beginning at Appendix C (105a).

Labor sued the trustees of another pension fund for retaining Meketa in the same dual, conflicted role. App. 147a-148a (¶ 73); App. 201a (*Perez* Complaint). And when Meketa made the same, unseemly pitch to serve in the same dual, conflicted role to another underfunded Taft-Hartley Fund, the American Federation of Musicians Pension Fund (the "Musicians Plan"), the Musicians Plan counsel at the prestigious Proskauer Rose LLP firm described Meketa's pitch as reflecting "bad judgment" and advised the Musicians Plan trustees that they would be exposed to breach of fiduciary duty claims if they hired Meketa in such a dual, conflicted role. App. 148a (¶ 74).

Moreover, Meketa's conflict was not merely theoretical; it was actualized. In its fiduciary role as the Teamsters Fund's private markets manager, Meketa recommended that the Trustees increase/maintain the Fund's overweight allocation bets *at the same time* that Meketa was reducing the emerging markets and private markets allocations in its own accounts and advising other pension plans like the Musicians Plan (for which it served as independent financial advisor but not in the dual conflicted role as private investments manager) due to Meketa's assessment of the risks associated with such investments (and because with respect to those pension plans Meketa had no financial incentive to recommend imprudent investment bets).

Despite these detailed facts that provide the specific context supporting Plaintiff's breach of fiduciary duty claims, both the Northern District of New York and the Second Circuit held that the

Complaint failed to plausibly allege a breach of fiduciary duty claim.

This Court has consistently recognized fundamental principles governing the adjudication of motions to dismiss ERISA claims:

- ERISA Fund fiduciaries must discharge their duties "with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims." *Hughes v. Nw. Univ.*, 595 U.S. 170, 172 (2022) (citing 29 U.S.C. § 1104(a)(1)(B));

- If Fund fiduciaries "fail to remove an imprudent investment from the Fund within a reasonable time, they breach their duty." *Id.* at 176 (citing *Tibble v. Edison International*, 575 U.S. 523, 529-30 (2015));

- Courts must analyze the allegations of an ERISA complaint as a whole, and not parse the allegations piece by piece. *Hughes*, 595 U.S. at 177; and

- A court's inquiry into whether a plaintiff has adequately alleged that a fiduciary breached ERISA's duty of prudence "will necessarily be context specific" because the content of that of that duty "turns on 'the circumstances … prevailing' at the time the acts." *Fifth Third Bancorp. v. Dudenhoeffer*,

> 573 U.S. 409, 425 (2014) (quoting 29 U.S.C. § 1104(a)(1)(B)). As a result, "categorical" pleading rules are "inconsistent with the context-specific inquiry that ERISA requires." *Hughes*, 595 U.S. at 173.

The dismissal of the Complaint here conflicts with *Tibble* and *Hughes*.

Moreover, the decisions below cannot be squared with either the Ninth Circuit's decision in *Anderson v. Intel* or the Sixth Circuit' decision in *Parker-Hannifan*. They also conflict with the Ninth Circuit's decision in *California Ironworkers Field Pension Trust v. Loomis Sayles & Co.,* 259 F.3d 1036, 1044-1045 (9th Cir. 2001), which upheld a *trial court judgment* that the Fund fiduciaries acted imprudently because allocating 30% of a pension Fund's assets in "highly risky investments" is "too much."[3]

Compared to *Anderson v. Intel* and *Parker-Hannifin*, the Complaint here contains more robust allegations regarding why the Defendants' extreme asset allocation was an imprudent outlier compared to the relevant benchmark, and why the Defendants' conflict-ridden decision-making process with respect

---

[3] Notably, the Second Circuit's decision below also conflicts with the Second Circuit's decision in *Pension Benefit Guaranty Corp. ex rel. St. Vincent Catholic Medical Centers Retirement Plan v. Morgan Stanley Inv. Mgmt. Inc.*, 712 F.3d 705, 717 (2d Cir. 2013) ("*St. Vincent/PBGC*"), which cited the Ninth Circuit's analysis in *California Ironworkers* with approval. *Anderson v. Intel* also cited *California Ironworkers* with approval. 137 F.4th at 1024-1025, 1030-1031.

to setting the Fund's asset allocation was imprudent due to inherent conflicts of interest. This case also concerns a defined benefit plan (which provides participants with a vested monthly payout from the assets of the Fund which are invested by plan fiduciaries) compared to the defined contribution plans (where participants contribute their own money and choose the investments in their individual accounts) in *Tibble*, *Hughes*, *Anderson v. Intel*, and *Parker-Hannifin*.

Accordingly, the Court should grant plenary review of this petition and consider it in tandem with *Anderson v. Intel* because it presents a more robust vehicle for the Court to address and resolve the benchmark issue in the context of asset allocation of a defined benefit plan, and several related issues, including the pleading standard for challenges to the process used by ERISA fiduciaries in making investment decisions, that have been repeatedly subject to inconsistent decisions. Alternatively, this Court should hold this petition pending the Court's merits disposition of *Anderson v. Intel* and disposition of the petition in *Parker-Hannifin* and then evaluate this petition as appropriate.

OPINIONS BELOW

The Second Circuit's November 21, 2025 decision affirming the dismissal of the Complaint is reported at 2025 WL 3251154. App. 1a. The District Court's February 7, 2025 decision dismissing the Complaint is reported at 2025 WL 438123. App. 14a.

JURISDICTION

The Second Circuit filed its opinion on November 21, 2025. The Court's jurisdiction rests on 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS

The Employee Retirement Income Security Act of 1974, Pub. L. No. 93-406, 88 Stat. 829, as amended and codified at 29 U.S.C. § 1001 *et seq*., provides in relevant part:

> a fiduciary shall discharge his duties with respect to a Fund solely in the interest of the participants and beneficiaries and … with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims. 29 U.S.C. § 1104(a)(1)(B).

STATEMENT

I. Statutory Background

Congress enacted ERISA to "promote the interests of employees and their beneficiaries in employee benefit [Funds]." *Shaw v. Delta Air Lines, Inc.*, 463 U.S. 85, 90 (1983).[4] The law was designed "to safeguard employees from the abuse and mismanagement of funds that had been accumulated to finance various types of employee benefits." *Massachusetts v. Morash*, 490 U.S. 107, 112 (1989). Congress found that the "inadequacy" of existing management standards "endangered" the "soundness and stability of [Funds]." 29 U.S.C. § 1001(a). Congress thus established safeguards intended to "insure against the possibility that the employee's expectation of the benefit would be defeated through poor management." *Morash*, 490 U.S. at 115. Congress imported these high duties into ERISA for a very good reason: "to prevent the great personal tragedy" that occurs when employers promise their employees retirement benefits but fail to deliver them. *Nachman Corp. v. Pension Benefit Guar. Corp.*, 446 U.S. 359, 374 (1980).

To that end, ERISA codified demanding fiduciary duties that impose "strict standards of trustee conduct derived from the common law of trusts." *Dudenhoeffer*, 573 U.S. at 416 (quoting *Cent. States, Se. & Sw. Areas Pension Fund v. Cent. Transp., Inc.*, 472 U.S. 559, 570 (1985)). Those standards include "a number of

[4] Unless otherwise specified, all internal quotation marks, emphases, alterations, and citations are omitted from quotations throughout.

detailed duties and responsibilities, which include 'the proper management, administration, and investment of [Fund] assets.'" *Mertens v. Hewitt Assocs.*, 508 U.S. 248, 251–52 (1993) (quoting *Mass. Mut. Life Ins. Co. v. Russell*, 473 U.S. 134, 142–43 (1985)). ERISA's fiduciary duties are considered the "highest known to the law." *Stegemann v. Gannett Co.*, 970 F.3d 465, 469 (4th Cir. 2020) (collecting references).

This case is about the duty of prudence. ERISA requires fiduciaries to act "with the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims." 29 U.S.C. § 1104(a)(1)(B). The duty of prudence also extends beyond the initial selection of investments; it imposes a "continuing duty to monitor trust investments and remove imprudent ones." *Tibble*, 575 U.S. at 529. And "[b]ecause the content of the duty of prudence turns on the circumstances … prevailing at the time the fiduciary acts, … the appropriate inquiry will necessarily be context specific." *Dudenhoeffer*, 573 U.S. at 425. At the pleading stage, that requires "careful, context-sensitive scrutiny of a complaint's allegations." *Id.*; *Hughes*, 595 U.S. at 173 (rejecting reliance on "a categorical rule" as "inconsistent with the context-specific inquiry that ERISA requires"). In connection with motions to dismiss, courts must analyze the allegations of an ERISA complaint as a whole, and not parse the allegations piece by piece. *Id.* at 177.

II. Factual Background

A. The Teamsters Pension Fund Faced a Funding Shortfall.

In the aftermath of the 2008 recession, the Teamsters Fund, like other Taft-Hartley funds, faced a severe shock to its funded status. App. 124a-125a (¶¶ 33, 35). By 2010, the Fund was only 62.9% funded, and the Trustees adopted a Rehabilitation plan. App. 125a-126a (¶¶ 36-37). The Teamsters Trustees were warned by their advisors that given the Fund's dangerous underfunded condition, the Fund's ability to meet its future obligations to pay vested pension benefits was particularly dependent on avoiding return volatility, as near-term losses would result in even greater lost returns in later years due to the loss of the compounding effect, even if greater returns were achieved in later years. App. 141a (¶ 64).

Nonetheless, in response to the funding shortfall, the Teamsters Trustees panicked, eschewing a prudent investment strategy in favor of a bet-the-house investment gamble unlike any other Taft-Hartley Fund (except the Musicians Plan). The Trustees compounded their own imprudence by compromising the Teamsters Fund's most important advisor – its non-discretionary investment consultant, Meketa. Not surprisingly, disaster ensued.

B. The Teamsters Trustees Imprudently Engaged Meketa in a Dual, Conflicted Role that Incentivized Meketa to Recommend that the Trustees Take Excessive Investment Risks and Tainted the Trustees' Decision-Making Process.

Before the 2008 recession, Meketa served as the Teamsters Fund's independent investment consultant with the duty to provide the Teamsters Trustees with independent advice regarding asset management. App. 113a, 176a-177a (¶¶ 12, 109). Despite the fundamental importance of its independence in advising the Teamsters Trustees, particularly given the Teamsters Fund's precarious financial condition, Meketa made an unseemly pitch to also serve as the Fund's discretionary private investments manager. Despite the obvious conflict, the Teamsters Trustees imprudently retained Meketa in the conflicted dual role,[5] which increased Meketa's annual compensation from $250,000 to $1.4 million, App. 113a, 176a-180a (¶¶ 12, 109-110), and incentivized Meketa to recommend that the Trustees embark on and thereafter maintain the high-risk investment gamble that included outsized allocations to private market investments.

Meketa's unseemly pitch for the dual role was not a one-off. In 2010, Meketa convinced the trustees of the IAM National Pension Fund to hire it in the same

[5] Meketa expressly agreed to provide all of its services to the Fund as an ERISA fiduciary and exercised discretion over Fund assets as private markets manager. App. 191a (¶ 135); *see* 29 U.S.C. § 1002(38).

dual, conflicted role. Upon discovering Meketa's dual conflicted role, the DOL filed a breach of fiduciary duty action, *Perez v. Roach,* alleging that the trustees of that Taft-Hartley pension plan failed to loyally and prudently select the IAM plan's service providers and created conflicts of interest by hiring Meketa, the IAM plan's independent investment consultant, as a discretionary private markets portfolio manager. App. 147a-148a (¶ 73); App. 221a (*Perez* complaint, ¶ 64).

Similarly, in 2010, Meketa made the same unseemly pitch to the Musicians Plan trustees. App. 148a (¶ 74). Recognizing its conflict, Meketa deceptively refused to give Musicians Plan counsel Proskauer Rose LLP "any solid information" about *Perez* and instead provided "contradictory" information that was "carefully worded and misleading." *Id*. The Musicians Plan trustees prudently rejected Meketa's pitch based on the advice of Proskauer, who described Meketa's unseemly pitch as "bad judgment." *Id*.

C. The Trustees and Meketa Imprudently Allocated Over 50% of Teamsters Fund Assets to the Highest-Risk Asset Classes.

Despite the Teamsters Fund's rapidly deteriorating funding condition, the Teamsters Trustees and Meketa made an imprudent asset allocation decision to chase an outsized investment target return by making an overweight concentration of the Fund's investment assets – over 50% – to international Emerging Markets Equities ("EME"),

Private Equity ("PE") and other private market alternative investments, like hedge funds, infrastructure and natural resources (collectively "Alternatives"), with a corresponding decrease to domestic equities. App. 135a-137a (¶¶ 55-56). As a result, Defendants reduced the Teamsters Fund's allocation to U.S. domestic equities – the gold standard for long-term investing – to just 18%. App. 142a-143a (¶ 67).

D. Defendants' Bet-The-House Investment Gamble Made the Teamsters Fund an Extreme Outlier Compared to its Taft-Hartley Peers.

The bet-the-house investment gamble made the Teamsters Fund an extreme outlier from the Fund's Taft-Hartley peers – which Meketa and the Plan actuary, Horizon, advised the Teamsters Trustees was the proper benchmark to evaluate the Fund's investment performance. App. 135a, 140a-141a, 142a-143a,169a-170a (¶¶ 54.a, 63, 67, 94). Defendants allocated an extraordinary 15% of Fund assets in EME even though the Fund's peer Taft-Hartley group had allocated just 2%. App. 139a-140a, 142a-143a (¶¶ 61-62, 67). Likewise, even though PE lacks transparency on performance and valuation and has a high illiquidity risk, the Trustees allocated over 15% to PE, while the Fund's peers only allocated 4%. App. 142a-143a (¶ 67). Besides the 30% allocated to EME and PE, Defendants allocated over an additional 15% to other dark private market Alternatives. App. 139a-140a (¶ 61).

What's more, the Fund's 18% allocation to domestic equities was over 56% *less* than the 32% average for the Fund's peers. App. 140a, 142a-143a (¶¶ 62, 67). While prudent investors profited handsomely by riding out the 2008 financial crisis and holding their domestic equities investments, the Teamsters Trustees' gamble to underweight domestic equities and overweight the high-risk EME, PE and Alternatives caused the Teamsters Fund to largely miss out on returns from the raging domestic equities bull market, which is now in its second decade.

Besides Meketa's analysis, the authoritative Wilshire Trust Universe Comparison Service for Taft-Hartley Funds confirmed the Fund's status as an extreme outlier. App. 140a (¶ 62). So too did independent analyses of outsized EME investments Meketa had initially recommended for the Musicians Plan. For example, when the Musicians Plan hired Gallagher Fiduciary Advisors to advise on the hiring of an Outsourced Chief Investment Officer, Meketa sought the OCIO position. Gallagher criticized the Musicians Plan's aggressive asset allocation and recommended against Meketa, calling Meketa's recommended "15% emerging markets target very aggressive" and opining that Meketa "made some aggressive strategic and tactical allocation recommendations." Similarly, another OCIO candidate, SEI Investment Company, criticized the Musicians Plan's 15% allocation as "too large of an overweight on a risk-adjusted basis" because "EME at 15% can bring too much volatility."

E. The Teamsters Trustees Knew the Risks of Their Outsized, Imprudent Gamble.

Meketa repeatedly warned the Teamsters Trustees: "Relative to the peer universe, the Fund is significantly underweight domestic and international developed market equities, and is significantly overweight to emerging markets and private equity … Compared to peers, [the Fund's] return ranked below the median return of the peer group. This was not surprising given the Fund's relatively large allocation to emerging markets equity and debt compared to peers." App. 138a, 142a-143a (¶¶ 59, 66-67).

Meketa and the Teamsters Trustees also knew that the Teamsters Fund's outlier allocation to EME, PE and Alternatives posed grave risks to the dangerously underfunded Fund and participants' pensions.[6] Meketa repeatedly advised the Teamsters Trustees that PE and EME were "risky, volatile, carried greater fees, and posed a danger of illiquidity…." App. 26a (District Court Decision). Indeed, the Complaint is replete with references to those warnings from Meketa, which are universally accepted. App. 113a-114a, 122a-123a, 135a-136a, 138a-139a, 142a-143a, 153a-155a (¶¶ 12, 31, 55, 59-60, 66-67, 85-86) ("Private market investments

---

[6] *See* App. 137a (¶ 57) ("Based on Meketa Investment Groups long-term expectations, only a handful of asset classes are priced to produce returns above 8% per year [and] [a]ll of these asset classes incorporate a high degree of volatility...all asset classes with high expected returns are likely to underperform their 'safer' counterparts over relatively frequent short term horizons.").

involve a significant degree of risk and are suitable only for sophisticated clients who have no immediate need for liquidity of the amount invested and who can afford a risk of loss of all or a substantial part of such investment. …. There is no assurance that such investments will be profitable and there is a substantial risk that associated losses and expenses will exceed income and gains.") (quotation at App. 153a-155a (¶ 86)).[7]

Given the lack of information on the actual performance and costs of the Fund's private markets portfolio investments managed by Meketa,[8] the extent of the Fund's lost returns on Defendants' high-risk PE and Alternatives gamble cannot presently be determined. However, according to the information reported to the Teamsters Trustees by Fiduciary Counselors, the "internal rates of return" reported by Meketa for the Private Markets Portfolio from 2014 through 2020 failed to achieve Meketa's 20-year capital market assumptions for most of the asset classes. App. 156a-170a (¶ 87-94). Moreover, based on publicly available studies, it is unlikely the private markets investment achieved the required reward for the high risk despite putting the Fund in a highly-

---

[7] Similar warnings were widely disseminated by numerous authoritative sources including the International Monetary Fund ("IMF"), Oxford University, Stanford University, Aon Hewitt, Goldman Sachs, Cliffwater, McKinsey, and Bain & Company. App. 143a-145a, 170a-176a (¶¶ 69, 96-107).

[8] Meketa acknowledged it too lacked information regarding the actual performance of the private markets investments. App. 138a (¶ 58).

illiquid position when liquidity was required to meet Fund funding obligations.[9]

F. The Teamsters Fund Lost Hundreds of Millions of Dollars Due to Defendants' Imprudent Asset Allocation.

Defendants' imprudent high-risk investment gamble failed miserably. As the Teamsters Trustees were warned, the EME experienced high volatility, including *losses* of 15.1% in 2011; 5% in 2013; 10.9% in 2015; 15.4% in 2018; and 7.6% in 2020. App. 149a-152a (¶¶ 76-83). The over-$200 million invested in EME *lost* approximately $31 million in value from 2014 through 2020. App. 150a (¶ 79). The impact of the volatility and loss was magnified due to the lack of compounding during the domestic equities bull market. App. 141a (¶ 64). The EME investment also substantially lagged the S&P 500, the Dow Jones Industrial Average and the Vanguard Balanced Index Fund. App. 151a (¶ 81). If Defendants had simply invested the over-$200 million they gambled on EME in the conservative Vanguard Balanced Fund, the Fund would have had more than $200 million more in assets as of 2020. App. 151a (¶ 82).

Meketa's persistence with the extraordinary outlier EME gamble for the Fund was particularly

---

[9] The high risk in private alternatives demands a premium, such as a 3% premium over the S&P 500 or a 4% premium above the Russell 3000. App. 170a (¶ 95). Studies from authoritative sources ranging from Oxford, Stanford, and Goldman Sachs reflect that PE generally underperformed domestic equity and cost far more and with far higher risk. App. 170a-172a (¶¶ 96-99).

egregious because in 2016, Meketa advised the Musicians Plan trustees that due to unacceptable risks, Meketa had eliminated EME from all of its discretionary portfolios and advised the Musicians Plan trustees to de-risk their EME portfolio by 40%. App. 148a (¶ 75). Due to its conflicted role and direct interest in the Teamsters Fund's high risk investment gamble, Meketa apparently did *not* provide same advice to the Teamsters Trustees.

The Fund's PE and Alternatives investments performance, while opaque, underperformed Meketa's capital market return assumptions for the asset classes. App. 158a-170a (¶¶ 88-94). In contrast, domestic equity performed exceptionally well, but the Teamsters Fund lost massive profits due to its minuscule 18% domestic equity allocation.

In sum, the Teamsters Fund would have had hundreds of millions of dollars more in assets with far less risk if the Trustees had adopted an asset allocation even at the outer edge of the most aggressive end of the range of the portfolios of the Fund's Taft-Hartley peers. App. 142a-143a, 151a (¶¶ 67, 82).

G. The Bet-The-House Gamble Failed, But Defendants Nonetheless Maintained It.

Defendants' high-risk asset gamble experienced crushing volatility (thereby losing out on the compounding of early returns) and failed to produce the gambled-for returns. Despite the raging domestic equity bull market, the Teamsters Fund's investment

returns lagged its Taft-Hartley peers and other relevant benchmarks due to the outlier allocation. App. 142a-143a, 151a (¶¶ 67, 81). The Fund's funded ratio (assets/pension liabilities) fell from approximately 63% for 2010 to 45.6% for 2015, and the Fund fell into "Critical and Declining" status under the Pension Protection Act of 2006, and was projected by its actuary Horizon to become insolvent. App. 123a-127a (¶¶ 32-39).

H. Due to the Losses Caused by their Imprudent Asset Allocation, the Teamsters Trustees Cut Fund Participants' Vested Pension Benefits by 19% to 29%.

Because the Teamsters Trustees' imprudent gamble placed the Teamsters Fund on the brink of insolvency, in 2017 they sought and received approval for a cruel 29% reduction in the *vested* pension payments for retired Fund participants and a 19% reduction for active Fund participants pursuant to the Multiemployer Pension Reform Act of 2014 ("MPRA"). App. 92a (¶¶ 45-46). The average cut for a retired participant was approximately $2,000-$5,000. App. 120a (¶46). Plaintiff Carlisle's vested pension benefits were cut by over $5,000 from 2017 to 2022. Despite these cuts, by year-end 2017, the Teamsters Fund was nevertheless projected to be insolvent by 2026.

Notwithstanding the continuously mounting evidence that the bet-the-house asset allocation failed and was dangerously imprudent, Defendants

maintained it following the MPRA benefit cuts. App. 139a-140a (¶ 61).

After the filing of the Complaint, Defendants' imprudent outlier investment strategy continued to fail and the only thing that saved the Teamsters Fund from immediate insolvency was the receipt of over $1 billion of taxpayer money as part of the American Rescue Fund Act ("ARPA") bailout of underfunded pension plans. App. 33a-35a (District Court Decision). Despite that extraordinary cash infusion, the Teamsters Trustees admitted in correspondence to Fund participants that the financial stability and long-term financial health of the Fund was still at risk. The Teamsters Trustees also admitted that ARPA bailout money provided no repayment of interest on the 19%-29% MPRA benefit cuts or any repayment of MPRA benefit cuts for surviving spouses or other dependents of Fund participants. The unpaid interest to Plaintiff Carlisle was over $1,200, and the unpaid interest to all Fund participants was over $74 million.

III. Procedural History

Plaintiff filed the Complaint in October 2020. App. 105a. In mid-2021, the Teamsters Trustees, Meketa and Horizon filed motions to dismiss pursuant to Fed. R. Civ. P. 12(b)(6). In February 2025, the District Court issued its Memorandum Decision and Order dismissing the Complaint.

The District Court held that Plaintiff's Complaint failed to plausibly allege claims for breach of the duties of prudence. App. 81a-102a. In doing so, the

District Court failed to meaningfully address or credit many of the detailed facts alleged in the Complaint or properly construe reasonable inferences in Plaintiff's favor, or properly construe Plaintiff allegations as a whole. In particular, the District Court rejected the allegation that the proper benchmark for the Teamsters Funds' asset allocation was the asset allocation of its Taft-Hartley peers, even though Meketa repeatedly used that as the appropriate benchmark to evaluate and compare the Fund's investment performance and Defendants never identified another benchmark. App. 86a-94a, 98a. Nor did the District Court believe that the S&P 500, the Dow Jones Industrial Average and/or the Vanguard Balanced Index Fund represented relevant benchmarks. App. 94a-97a.

In March 2025, Plaintiff timely filed his Notice of Appeal to the Second Circuit. In November 2025, the Second Circuit issued its Order affirming the dismissal of the Complaint. App. 1a. The Second Circuit acknowledged that the Complaint alleges that the Teamsters Trustees and Meketa "were aware of the notable risk, volatility, and illiquidity associated with [the highest-risk] asset classes" and that "other, similarly situated ERISA plans favored stabler investments" but held that "those allegations do not indicate that the Plan fiduciaries did more than engage in the normal practice of weighing tradeoffs and selecting from a range of reasonable judgments in the circumstances" and that the Complaint did not "adequately allege that the Plan's investment strategy constituted such an extreme outlier from peer multiemployer plans that it was imprudent." App. 10a. The Court also held that the Complaint's

detailed allegations regarding Meketa's dual role as independent financial advisor and private markets manager "[did] not suffice to establish the plausibility of a conflict," App. 10a-11a, notwithstanding the obvious financial incentive, the Department of Labor's *Perez* complaint alleging that the same dual role created a conflict, the view of the Musicians Plan's distinguished counsel at Proskauer, and Meketa giving the opposite advice regarding the outsized EME investments to the Musicians Plan and the Teamsters Fund.

REASONS FOR GRANTING THE PETITION

I. THE COURT SHOULD GRANT PLENARY REVIEW OF THIS PETITION AND CONSIDER IT IN TANDEM WITH *ANDERSON v. INTEL* TO ADDRESS THE VALIDITY AND PARAMETERS OF A "MEANINGFUL BENCHMARK" AND IMPRUDENT INVESTMENT PROCESS REQUIREMENTS IN ERISA DUTY-OF-PRUDENCE CASES.

This case raises the same questions as presented in *Anderson v. Intel and Parker-Hannifin*, i.e., whether ERISA imposes a "meaningful benchmark" requirement at the pleading stage in cases alleging a breach of ERISA's duty of prudence based on a pension fund's investment choices and resulting underperformance, and if so, the parameters of that requirement. Compared to *Anderson v. Intel* and *Parker-Hannifan*, the Complaint here includes more robust allegations regarding why the Teamsters

Fund's Taft Hartley peers represented an appropriate benchmark, how the Teamsters Trustees and Meketa used that benchmark to evaluate the Teamsters Fund's performance, why other indices like S&P 500, the Dow Jones Industrial Average and/or the Vanguard Balanced Index Fund also represented appropriate corroborating benchmarks for comparison purposes, and why the Defendants' decision-making process with respect to setting the Fund's asset allocation was imprudent due to inherent conflicts of interest.

The more detailed and varied allegations in the Complaint in this case therefore present a more robust vehicle for the Court to address and resolve the benchmark issue and several related issues that have been repeatedly subject to inconsistent decisions by Circuit Courts, including: (1) if ERISA does impose a "meaningful benchmark" requirement at the pleading stage, what are the parameters of that requirement necessary to satisfy the Rule 12 plausibility standard; (2) what constitutes an appropriate "benchmark" for comparison purposes; (3) the nature and extent to which allegations of underperformance compared to the alleged benchmark, in tandem with any accompanying allegations regarding an imprudent decision-making process, are sufficient to satisfy the Rule 12 plausibility standard; (4) whether there is any difference in how these issues are treated in cases involving defined contribution plans (like those in *Anderson v. Intel* and *Parker-Hannifin*) and defined benefit plans (like the Teamsters Fund here); and (5) whether there is any difference in how these issues are treated with respect to challenges to a pension

plan's overall asset allocation as opposed to challenges to specific investments within a pension plan.

The Court should therefore grant the petition so that it can address the issue raised in *Anderson v. Intel* with the benefit of a Complaint with a more robust set of allegations and avoid a piecemeal resolution of all the various related issues that have resulted in repeated, continuing Circuit Court splits.

A. The Courts of Appeals are Divided on the Requirements to Plead a Violation of Erisa's Duty of Prudence Based on Investment Decision-Making.

The Sixth Circuit's decision in *Parker-Hannifin* and the Ninth Circuit's decision in *Anderson v. Intel* not only conflict with each other, but both also conflict with the Second Circuit's decision here. The Second Circuit's decision also conflicts with the Ninth Circuit's decision in *California Ironworkers*, which was endorsed in *Anderson v. Intel*, and by the Second Circuit in *St. Vincent/PBGC*, and conflicts with this Court's decisions in *Tibble* and *Hughes*. The continuing inconsistencies amongst (and within) the Circuit Courts highlight why this Court should comprehensively set the standards for pleading ERISA prudence claims regarding investment decisions.

B. The Second Circuit's Decision Conflicts with *Parker-Hannifin*.

In *Johnson v. Parker-Hannifin Corp.*, the Sixth Circuit held that imprudent-investment claims against Parker-Hannifin and its Fund managers could move past the pleading stage. 122 F.4th 205, 222 (6th Cir. 2024). There, the plaintiffs alleged that the defendants violated their fiduciary duties by, among other things, imprudently retaining an underperforming target date fund as an investment option for beneficiaries. *Id.* at 212. The district court dismissed the claims on the ground that the plaintiffs had not alleged a "meaningful benchmark" against which to evaluate the underperforming fund. *Johnson v. Parker-Hannifin Corp.* No. 1:21-cv-00256, 2023 WL 8374525, at *15-23 (N.D. Ohio Dec. 4, 2023).

The Sixth Circuit reversed. It rejected the defendants' argument that a "meaningful benchmark" is always required when plaintiffs allege that fiduciaries imprudently invested Fund assets based on an underperforming fund. 122 F.4th at 216. At its core, the question in imprudent- investment cases is whether a plaintiff has pled "facts sufficient to give rise to an inference" that the fiduciaries' "real-time decision-making process" was inadequate. *Id.*

Even so, the Sixth Circuit also held that, "[t]hough a meaningful benchmark is not required to plead a facially plausible claim of imprudence," the plaintiffs did "in fact plead a meaningful benchmark." *Id.* For instance, the complaint alleged that the challenged funds were "designed to meet industry-recognized benchmarks" and that they had underperformed those industry-recognized

benchmarks, like the S&P target-date fund. *Id.* at 217. As the Sixth Circuit explained, because "tracking an industry-recognized index is the 'investment goal' of a passively managed target date fund," a "relevant market index is inherently a meaningful benchmark." *Id.* (quoting *Matousek v. MidAmerican Energy Co.,* 51 F.4th 274, 281 (8th Cir. 2022)). Thus, by alleging that the challenged fund had failed to track the performance of the fund it was "attempting to mimic," the complaint adequately alleged that the fiduciaries had imprudently invested Fund assets. *Id.*

No additional detail was required at the pleading stage. The court rejected the argument that the complaint did not allege enough detail about the benchmark—"i.e., its risk profile, bond-to-equity ratio, and investment strategy"—to "adequately compar[e]" the funds' performance, particularly because, like here, the plan fiduciary used the S&P target date fund benchmark for purposes of "comparison all on its own." *Id.* at 218 (citing *id.* at 232–33 (Murphy, J., dissenting)). Requiring that level of detail, the Sixth Circuit explained, is inconsistent with basic pleading standards. To adequately allege a meaningful benchmark, a complaint need not establish a one-to-one match between a comparator and the challenged fund. *Id.* at 217–18. Instead, "[t]he appropriate inquiry is whether the complaint alleges enough facts to permit the reasonable inference that the … benchmark would allow a jury to assess appropriately" the performance of the challenged funds and the prudence of the fiduciaries' decision-making process. *Id.* at 218.

The Second Circuit's dismissal of the Complaint here conflicts with *Parker-Hannifin*. Indeed, the

allegations of the Complaint here are more compelling than those in *Parker-Hannifin* for two reasons. First, besides alleging that broad industry-recognized indices like the S&P 500, the Dow Jones Industrial Average and/or the Vanguard Balanced Index Fund represent relevant benchmarks, the Complaint here alleges that a custom benchmark – the Teamsters Fund's Taft-Hartley peers, which the Teamsters Trustees and Meketa used to evaluate and compare the Fund's investment performance – represents the relevant benchmark. Second, the participants in the Parker-Hannifin defined contribution plan had the choice whether or not to invest in the challenged target date funds or to invest in other funds that undisputedly were prudently provided as choices by the plan fiduciaries. Here, participants in the Teamsters defined benefit Fund had no choice with respect to the Teamsters Trustees' and Meketa's extreme asset allocation decisions.

C. The Second Circuit's Decision Conflicts with the Ninth Circuit's Decisions in *Anderson v. Intel* and *California Ironworkers.*

In *Anderson v. Intel*, the Ninth Circuit disagreed with the Sixth Circuit and held that ERISA necessarily imposes a "meaningful benchmark" pleading requirement. 137 F.4th at 1023-1025.

Beyond that holding, the Ninth Circuit rejected the plaintiff's assertion that certain "equity-heavy retail funds" identified by plaintiff's counsel represented an appropriate benchmark because "Intel developed its own customized benchmarks … which it disclosed to plan

participants" and that those customized benchmarks were the only appropriate basis for comparison. 137 F.4th at 1023.

While Petitioner Carlisle disagrees with the Ninth Circuit's holding that ERISA always requires a benchmark for prudence claims regardless of the context in which those claims arise, Petitioner notes that in contrast to the complaint in *Anderson*, the Complaint here robustly supports Plaintiff's claims by showing that the Teamsters Fund's asset allocation was an extreme outlier compared to the Taft-Hartley peer plan custom benchmark used by the Teamsters Trustees and Meketa (in addition to referencing for corroboration purposes the S&P 500, the Dow Jones Industrial Average and the Vanguard Balanced Index Fund indices) and that specifically due to the outlier asset allocation, the Teamsters Fund's investment returns lagged their Taft-Hartley peers. Thus, the District Court's and Second Circuit's holding that the Taft-Hartley peer plans do not represent an appropriate benchmark for pleading purposes squarely conflicts with the Ninth Circuit's decision in *Anderson*.

What's more, the Second Circuit's decision conflicts with *Anderson's* endorsement of the analysis in *California Ironworkers* that "the prudence of each investment is not assessed in isolation but, rather, as the investment relates to the portfolio as a whole," and that "a plaintiff could make out an imprudence claim by alleging that a plan invested much more in a particularly risky class of assets than did other, comparable plans, even if investing in that asset class is not *per se* imprudent in smaller amounts."

Anderson v. Intel, 137 F.4th at 717, 1024-1025 (citing *California Ironworkers,* 259 F.3d at 1045). In *California Ironworkers*, the Ninth Circuit upheld a trial court judgment of imprudence because a 30% allocation in risky investments was deemed to be too much. According to the Second Circuit here, over 50% (supported by detailed allegations) was not even enough at the pleading stage.

D. The Second Circuit's Decision Conflicts with District Court Decisions.

Like the Teamsters Fund, the Musicians Plan was an underfunded Taft-Hartley plan facing the risk of insolvency that, based on Meketa's advice its role as independent financial advisors, made a similar, extreme allocation of plan assets to PE, EME, and Alternatives. In *Snitzer v. Board of Trustees of the American Federation of Musicians, et al.*, No. 1:17-cv-5361 (S.D.N.Y.), the Southern District of New York denied the Musicians trustees' motion to dismiss, holding that "the strategy [the AFM trustees] adopted was so risky that it is outside the bounds of what a prudent fiduciary would do" and that "the fact that this fund was significantly overweighted in volatile and illiquid asset classes (specifically EME and private equity) vis-a-vis it's Taft-Hartley peers, nudges plaintiffs' claim across the line from possible to plausible." App. 272a-276a (quotations at 274a). The court in *Snitzer* also rejected the argument (which the Teamsters Trustees' argued in this case) that plan trustees can take "extraordinary measures" like excessive investment gambles in a Hail Mary attempt to avoid looming insolvency. App. 2769a ("I

understand the situation the fund was in, but that is extraordinarily risky. I mean, yes, if the risk pays off, *mazel tov*, but the reason that it's risky is that you also have a risk that you're not going to get that return, that you're going to lose money. That's why the investment is risky").

The Southern District's analysis proved prescient. The facts revealed in discovery proved so damning the court refused to let the Musicians Plan trustees even file a summary judgment motion and the case settled shortly before trial for almost $27 million plus substantial therapeutic changes, which required the Musicians trustees to appoint a Neutral Independent Trustee as a *de facto* Co-Chair of the plan's investment committee; fire Meketa; appoint a Monitor of the plan's Outside Chief Investment Officer; and replace two trustees who were members of the plan's investment committee.

The inconsistent rulings in virtually-identical cases underscores the need for this Court to provide guidance to lower courts to provide plan sponsors, fiduciaries and participants with more predictability and reduce or eliminate avoid inconsistent decisions.

E. This Case Presents a Robust Complaint that Provides the Court with an Appropriate Vehicle to Address Significant Issues Regarding Pleading an ERISA Prudence Claim that are not Present in *Anderson v. Intel.*

Besides presenting robust allegations from which to evaluate the pleading standards specifically

related to benchmarks, this case also presents the Court with an opportunity to provide guidance with respect to how the pleading standards apply to other critical aspects of ERISA claims regarding investment decisions.

Unlike most ERISA cases, the Complaint here provides detailed allegations challenging the process by which the Teamsters Trustees and Meketa made their investment decisions. Those allegations include: that Meketa served in a dual, conflicted role; that the Department of Labor and the Musicians Plan counsel at Proskauer believed such a dual role created an imprudent conflict of interest; and how as a result of that conflict, Meketa advised the Teamsters Trustees to maintain their outsized investment in EMEs while at the same time Meketa removed EMEs from its own portfolio and advised the Musicians Plan trustees to do the same due to unacceptable risks. This case provides the Court with an opportunity to explain how, consistent with its pronouncement in *Hughes* that courts must analyze the allegations of an ERISA complaint as a whole, and not parse the allegations piece by piece, courts should evaluate complaints that contain benchmark allegations and imprudent process allegations.

In addition, the Court has not yet had the opportunity to provide guidance on how the pleading standards apply with respect to defined benefit plans, and relatedly how they apply to the asset allocation decisions in defined benefit plans, as opposed to how they apply with respect to individual investment choices offered in a defined contribution plan like that in *Anderson v. Intel*. Providing such

guidance to fiduciaries of defined benefit plans is of paramount importance in light of the taxpayer-funded $100 billion bailout of such plans pursuant to ARPA.

CONCLUSION

The petition for a writ of certiorari should be granted and considered in tandem with *Anderson v. Intel*, or, alternatively, held pending this Court's disposition of *Anderson v. Intel* and the pending writ of certiorari in *Parker-Hannifin Corp. v. Johnson*, and then disposed of accordingly.

Respectfully submitted,

/s/ Steven A. Schwartz
Steven A. Schwartz
Counsel of Record
Chimicles Schwartz Kriner
& Donaldson-Smith LLP
361 West Lancaster Avenue
Haverford, Pennsylvania 19041
(610) 642-8500
sas@chimicles.com

Robert J. Kriner
Chimicles Schwartz Kriner
& Donaldson-Smith LLP
2711 Centreville Road, Suite 201
Wilmington, Delaware 19808
(302) 656-2500
rjk@chimicles.com

Counsel for Petitioners

Dated: February 11, 2026