**23-1209 M & K EMPLOYEE SOLUTIONS, LLC V. TRUSTEES OF THE IAM PENSION FUND**

DECISION BELOW: 92 F.4th 316

LOWER COURT CASE NUMBER: 22-7157, 22-7158, 23-7028

QUESTION PRESENTED:

The Employee Retirement Income Security Act imposes "withdrawal liability" when an employer withdraws from an underfunded multiemployer pension plan. This withdrawal liabilty covers the employer's share of the plan's underfunding. Because a plan's amount of underfunding hinges on projections about its projected liabilities and assets decades into the future, withdrawal liability computations are partly a product of actuarial assumptions about anticipated interest rates and other predictions. Withdrawal liability must be computed "as of the end of the plan year preceding the plan year in which the employer withdraws." *E.g.,* 29 U.S.C. 1391(b)(2)(E)(i). The question presented is:

Whether 29 U.S.C. 1391's instruction to compute withdrawal liability "as of the end of the plan year" requires the plan to base the computation on the actuarial assumptions to which its actuary subscribed at the end of the year, or allows the plan to use different actuarial assumptions that were adopted after the end of the year.

THE PETITION FOR A WRIT OF CERTIORARI IS GRANTED LIMITED TO THE FOLLOWING QUESTION: WHETHER 29 U. S. C. §1391'S INSTRUCTION TO COMPUTE WITHDRAWAL LIABILITY "AS OF THE END OF THE PLAN YEAR" REQUIRES THE PLAN TO BASE THE COMPUTATION ON THE ACTUARIAL ASSUMPTIONS TO WHICH ITS ACTUARY SUBSCRIBED AT THE END OF THE YEAR, OR ALLOWS THE PLAN TO USE DIFFERENT ACTUARIAL ASSUMPTIONS THAT WERE ADOPTED AFTER THE END OF THE YEAR.

Order of July 3, 2025:

The order granting the petition for a writ of certiorari is amended as follows. THE PETITION FOR A WRIT OF CERTIORARI IS GRANTED LIMITED TO THE FOLLOWING QUESTION: WHETHER 29 U. S. C. §1391'S INSTRUCTION TO COMPUTE WITHDRAWAL LIABILITY "AS OF THE END OF THE PLAN YEAR" REQUIRES THE PLAN TO BASE THE COMPUTATION ON THE ACTUARIAL ASSUMPTIONS MOST RECENTLY ADOPTED BEFORE THE END OF THE YEAR, OR ALLOWS THE PLAN TO USE DIFFERENT ACTUARIAL ASSUMPTIONS THAT WERE ADOPTED AFTER, BUT BASED ON INFORMATION AVAILABLE AS OF, THE END OF THE YEAR.

CERT. GRANTED 6/30/2025