



# National Compliance Update

## USI EMPLOYEE BENEFITS

March 19, 2026

## PBM Litigation Survives Motion to Dismiss

As previously reported, ERISA fiduciary litigation against health plan sponsors is on the rise. Specifically, plan participants, as plaintiffs, have alleged fiduciary breaches by plan sponsors for failing to monitor the service providers managing pharmacy benefit managers (“PBMs”).

While several similar lawsuits have been dismissed, last week a federal court allowed a prohibited transaction claim to proceed.<sup>1</sup> While it is too early to tell what the impact of this decision will be in the context of future litigation it is an interesting development and something to watch.

The following provides additional details.

### BACKGROUND

On March 13, 2025, a class action lawsuit<sup>2</sup> was brought by current and former JPMorgan employees alleging that JPMorgan breached its ERISA fiduciary duties of prudence and loyalty and also engaged in ERISA prohibited transactions by mismanaging the prescription drug component of JPMorgan’s self-funded group health plan. Specifically, the plaintiffs allege that JPMorgan, through its PBM arrangement with CVS Caremark:

- grossly inflated drug prices relative to acquisition cost;
- increased costs through spread pricing;
- increased costs through retained rebates;
- increased costs through specialty drug classifications; and

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<sup>1</sup> *Lewandowski v. Johnson & Johnson* No. 24-671 (ZNQ) (RLS), 2025 WL 3296009, (D.N.J. Nove 26, 2025) appeal docketed, No. 26-1107 (3d Cir. Jan. 21, 2026). (See USI’s Compliance Update, [Update on the Johnson & Johnson ERISA Fiduciary Lawsuit](#) (January 30, 2025). See also *Navarro v. Wells Fargo* No. 24-cv-3043, 2025 WL 897717 (D. Minn. March 24, 2025).

<sup>2</sup> *Seth Stern, Angela Bindner, and Marianne Schmitt, on their own behalf, on behalf of all others similarly situated, and on behalf of the JPMorgan Chase Health Care and Insurance Program for Active Employees and its component Medical Plan v. JPMorgan Chase & Co., JPMorgan Chase Bank N.A., JPMorgan Chase U.S. Benefits Executive, and JPMorgan Chase Compensation & Management Development Committee* (Case 1:25-CV-02097-JLR, S.D.N.Y.).

- engaged in prohibited transactions.

These actions caused plaintiffs injury in the form of increased out-of-pocket costs and premiums.

On June 3, 2025, JPMorgan filed a motion to dismiss.

### **MOTION TO DISMISS, OPINION AND ORDER**

In a decision issued on March 9, 2026, the District Court:

- Dismissed the ERISA fiduciary-breach claims as the challenged conduct did not involve fiduciary functions.
- Held that plaintiffs did not have standing as to their higher premium theory.
- Held the plaintiffs have standing because they allege personal financial loss because of out-of-pocket overpayments for prescription drugs,<sup>3</sup> allowing the ERISA prohibited transaction claims against JPMorgan to proceed.

#### *Fiduciary Breach Claims Dismissed*

The District Court agreed with JPMorgan and dismissed the ERISA fiduciary-breach claims. Plaintiffs alleged JPMorgan breached their fiduciary duties of prudence and loyalty primarily through the way they structured the plan's prescription drug program.

In dismissing these claims, the District Court held that decisions about PBM pricing models, formularies, specialty drug treatment, and whether to adopt pass-through or carve-out arrangements are plan design decisions ("settlor functions"), not fiduciary acts subject to ERISA's fiduciary standards.

#### *Prohibited Transactions Claims Allowed to Proceed*

The District Court's decision allows the ERISA prohibited transaction claims to proceed. Briefly, the plaintiffs alleged that JPMorgan engaged in a prohibited transaction by transferring plan assets to their PBM in exchange for services with compensation that is unreasonable.

The decision relies on prior precedent established by the Supreme Court which clarified that ERISA plaintiffs only need to plausibly allege the elements of a prohibited transaction claim to survive a motion to dismiss.<sup>4</sup> Briefly, the elements to a prohibited transaction claim are:

1. the plan engaged in a transaction;
2. the fiduciary knew or should have known the transaction involved the furnishing of goods or services; and
3. the transaction was between the plan and a party in interest; in this case the party in interest is the PBM.

The District Court found the plaintiffs sufficiently pled the elements of a prohibited transaction claim.

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<sup>3</sup> The court did not grant standing on plaintiffs' claim of injury in the form of higher premiums. The court found participant premium increases were too speculative to serve as the basis for standing.

<sup>4</sup> *Cunningham v. Cornell University*, 604 U.S. 693 at 709, 2025, "The Court today holds that plaintiffs seeking to state a § 1106(a)(1)(C) claim must plausibly allege that a plan fiduciary engaged in a transaction proscribed therein, no more, no less."

However, the District Court did note that JPMorgan may have ample defenses to the claim that it engaged in a prohibited transaction. Such defenses will likely be raised as this claim proceeds through the litigation.

### WHAT THIS MEANS

It is unclear how this litigation will be resolved. Both parties may seek to appeal the District Court's decision.

It is interesting to note that this is the third lawsuit of its kind and the only one to survive a full motion to dismiss. The decision reinforces the rule that while employers retain broad discretion over health plan design, PBM compensation structures and service-provider payments remain a key area of ERISA litigation risk.

### EMPLOYER NEXT STEPS

Although there are no action items for employers, it is always advisable to review compliance with general fiduciary duties and check agreements with PBMs for the reasonableness of fees.

### RESOURCES

For a copy of the opinion, visit [stern-v-jpmorgan-sdny-03092026.pdf](#)

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