

Supreme Court Will Decide If Overfunded Pension Plans May Be Sued

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Carlton Fields attorney Lowell Walters was quoted in a *Society for Human Resources Management* article, "Supreme Court Will Decide If Overfunded Pension Plans May Be Sued," about the U.S. Supreme Court's upcoming decision on whether overfunding inhibits plan participant's claim of breach fiduciary duty.

In the case *Thole v. U.S. Bank*, a defined benefits plan was invested only in stocks, and when the plan lost money in the Great Recession and was therefore underfunded, plan participants sued. After a substantial contribution to the plan resulted in it being overfunded, the case was dismissed.

"In general, plans that have established investment committees that monitor investments throughout the year and try to balance costs with returns and diversifications win these lawsuits," commented Walters. "If *Thole v. U.S. Bank* is allowed to proceed, the company may be in a good position to come out victorious if it had a prudent process in place for monitoring its investments."

[Read the article.](#) (Subscription may be required).

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