

Press Coverage | January 26, 2025

Changing Conditions Lay Groundwork for ERISA's Evolution, More Litigation

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Andrew Henson, a partner in Troutman Pepper's Labor + Employment Practice Group, was quoted in the January 26, 2025 *Virginia Lawyers Weekly* article, "[Changing Conditions Lay Groundwork for ERISA's Evolution, More Litigation](#)."

"The primary question that arises from *Loper Bright* relates to whether ERISA regulations will pass muster under the new standard, particularly ERISA regulations that purport to deprive plans of rights set forth in the plain language of plan documents," Richmond employment lawyer Andrew J. Henson of Troutman Pepper Locke said.

With the high court's decision in *Loper Bright*, Henson brought up an example of a potential issue: "whether the regulations can deprive an administrator of discretionary authority that is reserved in the plan documents."

"There is nothing in the text of ERISA that would appear to provide the [Department of Labor] with this regulatory power," Henson said.

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Henson anticipated more of the same despite the change at the White House.

"The Trump administration has not called out ERISA as a specific priority," he said. "I do not anticipate any material change in ERISA litigation due to the incoming administration."

In Virginia, Henson said that the 4th Circuit has been adapting to new federal court adjudication rules.

He cited the circuit's 2022 holding in *Tekman v. Reliance Standard Life Insurance Co.*, which altered the common practice that settled ERISA benefit disputes via cross-motions for summary judgment.

"In *Tekman*, the 4th Circuit rejected this practice for cases reviewed de novo," Henson said. "Instead, the court mandated that such cases be decided through a bench trial of the administrative record under F.R.C.P. Rule 52."

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