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AT&T Offloaded Pensions In Risky Annuity Deal, Suit Says

By **Grace Elletson**

Law360 (March 12, 2024, 1:48 PM EDT) -- AT&T shirked its fiduciary duty and put 96,000 workers' retirement savings in jeopardy by transferring pension obligations to a "risky" annuity provider, according to a proposed class action filed in Massachusetts federal court.

Retirees LaNell Piercy, Willa G. Ward, Thomas L. Mazzeo and Sue Rush **filed suit** against AT&T Inc. on Monday alleging the company violated the Employee Retirement Income Security Act when it put profits before its workers' retirement benefits when it offloaded over $8 billion in pension plan liabilities through the deal.

"Although AT&T is worth more than $100 billion, and is the world's fourth-largest telecommunications company, the company decided to fatten its wallet by placing its retirees' futures in the hands of a risky new insurance company," the former workers said.

In April 2023, the workers said, AT&T paid an undisclosed amount to Athene Annuity and Life Co. and Athene Annuity & Life Assurance Co. of New York — both subsidiaries of Athene Holding Ltd. — to assume $8 billion in pension liabilities owed to 96,000 of its employees and their beneficiaries. The deal effectively removed the employees from AT&T's retirement plan, the workers said.

The company purchased group annuity contracts from Athene, and in exchange, Athene promised to pay the plan participants' retirement benefits — a move known as a pension risk transfer, which also put the beneficiaries outside the bounds of ERISA's protection, the workers said. They said AT&T earned $363 million in profits from this deal.

Before this transaction, AT&T was obligated under federal law to ensure retirees received their benefits, and it was also required to continually monitor their assets to ensure their benefits' financial health, the workers said. But this deal allows AT&T to evade these responsibilities, the workers claimed.

"The ejected plan participants and beneficiaries are now entirely reliant on the solvency of Athene for their retirement benefits," the workers said.

And Athene is a "highly risky annuity provider," the workers claimed, as a private equity-backed insurer that engages in the "shadow banking" sector. Under ERISA, plan sponsors are governed by strict requirements that retirement benefits can be transferred from the federally regulated pension system to private annuity providers only when it's in the best interest of the plan participants, the workers said.

But Athene is "anything but" a safe and reasonable annuity provider to fulfill this obligation, the workers said. AT&T and State Street Global Advisors Trust Co., an independent fiduciary also named in the suit that helped organize the transaction, selected Athene because it was the cheapest option rather than other annuity providers that have a more reliable track record.

"AT&T, AT&T Services, and State Street … have thus breached their fiduciary duties under ERISA, and the transaction was prohibited by ERISA," the workers said.

The former employees are seeking financial relief resulting from AT&T's profits and losses derived from its dealings, and an injunction requiring AT&T guarantee retirees receive their benefits promised under the plan.

An AT&T spokesperson told Law360 that the company denies the allegations and will defend itself in court.

Counsel for the workers declined to comment. Representatives of State Street and Athene did not immediately respond to requests for comment.

The workers are represented by Douglas S. Brooks and Elizabeth N. Mulvey of Libby Hoopes Brooks & Mulvey PC, by Cyril V. Smith and Bryan M. Reines of Zuckerman Spaeder LLP, by Edward Stone of Edward Stone Law PC and by Elizabeth Hopkins and Susan L. Meter of Kantor & Kantor LLP.

Counsel information for AT&T and State Street was not available.

The case is Piercy et al. v. AT&T Inc. et al., case number 1:24-cv-10608, in the U.S. District Court for the District of Massachusetts.

--Editing by Roy LeBlanc.