

### Sheppard Mullin Secures Summary Judgement in Withdrawal Liability Dispute Under ERISA

12.09.2022

The Central District of California granted summary judgement in favor of Sheppard Mullin clients HOWS Markets, LLC ("HOWS") and R&K Hughes Family Partners, LP ("Hughes LP") in a case involving withdrawal liability for pension benefits arising under the Employee Retirement Income Security Act of 1974 ("ERISA").

#### Background on the Case

HOWS operated a small chain of supermarkets in Southern California from 1999-2014. During that time, HOWS entered into collective bargaining agreements ("CBAs") with several local unions of the United Food and Commercial Workers Union covering the bargaining-unit employees working in HOWS's markets. HOWS became a participating employer in the Southern California United Food and Commercial Workers Unions and Food Employers Joint Pension Trust Fund ("Pension Fund") pursuant to those CBAs.

As a participating employer, HOWS was obligated under the terms of the CBAs to contribute to the Pension Fund to provide retirement and related benefits to its bargaining-unit employees, and HOWS contributed to the Pension Fund for over 10 years. HOWS closed its operations March 31, 2014 and withdrew from the Pension Fund.

In 2015, the Pension Fund asserted a claim for withdrawal liability for pension benefits against HOWS as well as Hughes LP. Because HOWS ceased operations and could no longer fulfill the request, the Pension Fund alleged that Hughes LP was part of the controlled group and that it was liable under ERISA. The Pension Fund argued that HOWS and Hughes LP were part of a controlled group of common ownership and control such that withdrawal liability could be imposed under ERISA and certain Treasury Regulations.

Following fact and expert discovery, Sheppard Mullin moved for summary judgment on the grounds that Plaintiffs cannot establish that Hughes LP and HOWS were under common ownership and control as necessary to impose withdrawal liability under ERISA. The Court granted summary judgement in favor of HOWS and Hughes LP on December 5, 2022. The Court agreed that the Pension Fund's attempt to establish withdrawal liability was based on an inappropriate valuation of the ownership of HOWS and that the Pension Fund could not prove that HOWS and Hughes LP were part of the same controlled group.

The Sheppard Mullin team was led by Robert Guite, Sheldon Kline, Ryan Munitz and Michael Lundholm.

The case is *Frank Jorgensen and Andrea Zinder, As Trustees of the Southern California United Food and Commercial Workers Unions and Food Employers Joint Pension Trust Fund v. HOWS Markets, LLC and R&K Hughes Family Partners, LP*.

## Attorneys

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## Practice Areas

Employee Benefits/ERISA

Litigation

## Industries

Food and Beverage