

APRIL 14, 2025 | TRADITIONAL LABOR RELATIONS

# CMC Attorney Mark Trapp Secures Favorable Ruling in \$23M Pension Dispute

BY MARK M. TRAPP

[Conn Maciel Carey LLP](#) recently scored a major victory on behalf of Consumers Concrete Corp., convincing a federal judge to overturn a multimillion-dollar pension liability ruling in a complex and closely contested area of law.

In 2017, Consumers partially withdrew from the Central States, Southeast and Southwest Areas Pension Fund. The fund said the company owed \$11.3 million (or monthly payments of \$42,200 for 20 years) for its share of the fund's shortfall. In 2019, the company fully pulled out of the fund. This time, the fund demanded \$22.9 million (or \$50,700 per month for 20 years). Consumers disagreed with how the second amount was calculated, arguing that the fund failed to properly account for the amounts paid as part of the prior partial withdrawal. But the arbitrator ruled for the pension fund, ordering the company to keep paying both sets of monthly payments. In 2023, Consumers filed a lawsuit to challenge that decision. The pension fund responded with its own lawsuit to enforce it. The court then combined both cases into one.

This culminated in U.S. District Judge LaShonda A. Hunt [ruling](#) that the Central States pension fund erred in its \$23 million calculation, holding that the arbitrator must reassess the amount and properly credit Consumers for payments it had already made. Specifically, Judge Hunt found that the pension fund applied Consumers' prior partial credit at the wrong point in the four-step calculation process used to determine withdrawal liability and that the fund should have applied the credit after the withdrawal liability was calculated by applying the four adjustments. The law, she explained, says the credit should lower the final amount owed, which is the withdrawal liability, not the allocable amount of unfunded vested benefits. By applying the credit to the latter, rather than the former, the fund violated the plain language of the statute, which requires the credit to reduce withdrawal liability.

The ruling marks a major win — not only because it forces a recalculation, but because it splits from the Ninth Circuit's 2018 ruling in *GCIU-Employer Retirement Fund v. Quad/Graphics Inc.*, and provides ammunition for other employers to challenge funds who improperly fail to credit employers for the amounts previously assessed as part of a prior partial withdrawal.

CMC attorney Mark Trapp told [Law360](#) that he and the company are pleased with Judge Hunt's "thoughtful and well-reasoned decision, which recognizes and confirms that unfunded vested benefits and withdrawal liability are different things." This ruling highlights the efficacy of legal representation provided by attorneys in Conn

Maciel Carey's national [Labor • Employment Practice](#) in complex workplace disputes.

Read more about the case [here on Law360](#).