

# Cigna Misled Employees, Judge Rules

## Attorneys Seeking Hundreds Of Millions In Retirement Benefits

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A New Haven federal court judge has ruled that CIGNA misled its employees about a switch to a new pension plan, and attorneys will now try to recoup hundreds of millions of dollars in retirement benefits for thousands of workers.

The decision in the 2001 class-action case, issued by Judge Mark R. Kravitz late Friday, concerns CIGNA's conversion from a traditional pension plan with defined benefits to a "cash balance" plan, starting in 1998.

A cash balance plan, which hundreds of U.S. companies have adopted, features a hypothetical account for each employee that is credited with varying interest rates. Conversion to the plans has stirred much controversy and litigation because they can save companies millions of dollars over time and mean lower benefits than the traditional pension plans for many employees - especially those nearing retirement. At CIGNA, the conversion sparked employee anger.

In his 122-page decision, Kravitz said the design of CIGNA's cash balance plan complies with the law and did not discriminate based on age, as plaintiffs' attorneys argued.

However, CIGNA failed to give a key notice to employees that is required by the federal Employee Retirement Income Security Act, and the company's plan descriptions and other materials "were inadequate under ERISA and, in some instances, downright misleading," Kravitz wrote.

CIGNA said in a statement that it is disappointed with that finding and continues "to believe that we treated all employees fairly and appropriately."

Kravitz has ordered attorneys in the case to file briefs by March 17 on what remedies they think should be granted to the employees and retirees. Stephen Bruce, a Washington, D.C., attorney representing CIGNA employees, said that if they're able to get full relief, it will mean "hundreds of millions" in retirement benefits.

CIGNA said it's too early to say what its liability might be, how many employees will be affected by the ruling, or whether the company will appeal the decision.

The case is the first involving a cash balance plan to go to trial, plaintiffs' attorneys noted. Other cash balance lawsuits have been decided on summary judgment motions without a trial.

The CIGNA suit was brought on behalf of about 26,000 employees and retirees - people who participated in the traditional pension plan before Jan. 1, 1998, and have participated in the cash balance plan since then. CIGNA is based in Philadelphia, but its health insurance business is based in Bloomfield.

Friday's ruling will serve as "an excellent blueprint for other courts to scrutinize these disclosures" that companies make concerning conversion to cash balance plans, said Tom Moukawsher in Hartford, co-counsel representing the CIGNA employees. "This court decision is a precedent for looking at the underbelly of the disclosures for basic honesty."

CIGNA had announced the new plan in a 1997 newsletter with a message from then-chief executive Wilson "Bill" Taylor saying the company "will significantly enhance its retirement program." The newsletter said the cash balance plan "is designed to work well for both longer and shorter-service employees."

However, Kravitz said the company failed to inform employees about how the plan design and falling interest rates could result in "wear-away" - future benefits accruing at a significantly reduced rate.

It meant that even though employees continued to work for CIGNA and their cash balance account received pay and interest credits, their expected retirement benefits had not grown beyond what they were entitled to under the old pension plan as of Dec. 31, 1997.

In some cases, it would take years before additional benefits accrued under the cash balance plan, and some employees retired without having accrued any additional benefits under the plan.

In the case of lead plaintiff Janice Amara, for instance, it would have taken more than 10 years for her cash balance account to exceed the value of her previously earned benefits, according to a plaintiffs' expert quoted in the ruling.

Amara, a retired, long-term CIGNA employee who now lives in Middletown and Florida, recalls her feelings when she learned that her retirement benefit was not growing under the cash balance plan.

"I was very, very angry because I could have made different decisions" when changing jobs, said Amara, who ironically spent much of her CIGNA career in the pension division. "I felt betrayed."

Her initial retirement benefit was \$1,831 a month. But it's now \$4,096 because she was also part of another lawsuit CIGNA lost in 2004 that covered people who left the company, and then were later rehired. They were put back into the company's traditional pension plan.

A younger woman, who no longer works for CIGNA, could see a monthly CIGNA pension benefit of more than \$1,750 eventually instead of \$925 a month if full relief is granted, Bruce said.

Contact Diane Levick at [dlevick@courant.com](mailto:dlevick@courant.com).