

Sixth Circuit Roundup: Fake Citations, Celebratory Gunfire, and Pension Plan Pitfalls

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Welcome to ELPO's latest roundup of essential updates from the U.S. Court of Appeals for the Sixth Circuit, based on the *Sixth Circuit Review* for March of 2026. From severe sanctions for citing "hallucinated" case law to major rulings on pension plans and police use of force, the court has handed down several impactful decisions. Here are the helpful highlights you need to know:

The Perils of Fake Case Law: A \$30,000 Lesson in Candor

In a world of AI, the cardinal rule of appellate practice remains: do not cite fake cases. In *Whiting v. City of Athens*, the Sixth Circuit delivered a blistering reprimand to two attorneys who did just that. The underlying case involved lawsuits over a 2022 municipal fireworks show; however, the appellate court's focus quickly shifted to the misconduct of the plaintiff's lawyers, who submitted briefing that "repeatedly misrepresented the record, cited non-existent cases, and cited cases for propositions of law that they did not even discuss." The court identified over two dozen fake citations and misrepresentations.

Noting that citing fake opinions is an "abuse of the adversary system," the Sixth Circuit sanctioned the attorneys under Federal Rule of Appellate Procedure 38 and the court's inherent authority. The court explicitly rejected the notion that having *some* valid authority in a brief negates the harm caused by hallucinated cases, stating: "**absolutely not; period; end of story; all stop.**" The attorneys were ordered to pay double costs, reimburse the appellees' attorneys' fees, and each personally pay a \$15,000 punitive sanction to the court registry.

ERISA: Pension Plans Cannot Use 1960s Mortality Tables

In *Thomas Reichert v. Kellogg Co.* and *Watt v. FedEx Corp.*, a pair of consolidated class action lawsuits, retirees scored a major victory in a pair of consolidated class action lawsuits against the Kellogg Company and FedEx Corporation. The plaintiffs alleged that their defined benefit pension plans calculated their joint and survivor annuity benefits using wildly outdated mortality data from the 1960s and 1970s. Because life expectancies have significantly improved since then, relying on these obsolete tables artificially lowered the retirees' monthly payouts.

On the other hand, the employers argued that the Employee Retirement Income Security Act (ERISA) does not explicitly mandate the use of any particular mortality tables. The Sixth Circuit disagreed, reviving the lawsuits. The court held that ERISA's statutory requirement that a joint and survivor annuity be the "actuarial equivalent" of a single life annuity inherently **prohibits plans from using unreasonably outdated actuarial assumptions**. To accurately achieve equivalent present value, plans must use data that reasonably reflects the actual life expectancies of modern-day retirees.

A Quick Procedural Note: The Rooker-Feldman Doctrine

Finally, for the civil procedure enthusiasts, the court clarified the notoriously tricky *Rooker-Feldman* doctrine in *HPIL Holding, Inc. v. Harry Zhang*. After a state court appointed a receiver

in a dispute over a corporation, minority shareholders sued in federal court, alleging that the receiver and others looted the company during the proceedings.

The district court dismissed the case, assuming it lacked jurisdiction to review state court judgments. The Sixth Circuit reversed, reminding lower courts that *Rooker-Feldman* is a "vanishingly narrow" doctrine. The court clarified that the doctrine only bars direct appeals of state court judgments by state-court losers. Because the plaintiffs in this case were alleging injuries caused by the *independent misconduct* of the defendants (the looting) rather than injuries caused by the state court judgment itself, the federal lawsuit was allowed to proceed.