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## Sysco Not Bound To Arbitrate Teamsters Pension Fight

By **Emily Brill**

Law360 (March 22, 2023, 8:50 PM EDT) -- Sysco Indianapolis LLC's contract with a Teamsters local does not compel the company to arbitrate pension-related grievances, an Indiana federal judge has ruled, saying the company does not have to submit to arbitration in a dispute with the union over retirees' eligibility for certain early retirement benefits.

In a **decision** Tuesday, U.S. District Judge James Patrick Hanlon said the case record contains "forceful evidence" that Sysco and Teamsters Local 135 did not intend to arbitrate pension-related disputes under their 2018 collective bargaining agreement.

That evidence included the parties' bargaining history, which showed that Sysco refused to incorporate certain pension-related language into the 2018 CBA and the fact that the pension plan is separate from the CBA.

The plan, which existed for 60 years before Sysco's employees could enroll, is governed by "separate rules and dispute resolution procedures independent of those that govern the CBA," Judge Hanlon said. Therefore, pension-related issues are exempt from the CBA's language on arbitration, the judge found.

"Viewed collectively, these facts are 'forceful evidence' that plan benefits 'were never intended to be [arbitrable] between the parties under the provisions of the' 2018 CBA," Judge Hanlon said.

Sysco sued Local 135 in January 2022, seeking a declaration that it did not need to go to arbitration in response to a union grievance over benefits eligibility. The grievant's only option was to go through the pension plan's internal dispute-resolution process, the company argued, saying the CBA doesn't enshrine the right to arbitrate pension-related issues.

The union filed a motion for summary judgment in April, arguing that the CBA states that arbitration is the correct forum to resolve "any controversy, complaint or dispute arising as to the interpretation or application of or the compliance with any provisions of this agreement." The union argued that this language encompassed disputes over pension benefits.

Sysco filed its own motion for summary judgment in June. It said that under Seventh Circuit precedent, companies are free from the obligation to submit pension-related disputes to arbitration if they can show that their CBA, pension plan and bargaining history make no mention of such a requirement and that the plan was independent of the CBA. The company **told the court** it met all of those criteria.

The underlying grievance, filed Jan. 8, 2019, accuses Sysco of violating its CBA with Local 135 by refusing to provide a \$500 per month supplemental early retirement benefit to union-represented employees. When the issue wasn't resolved within the first four steps of the grievance procedure, the union requested arbitration and selected a neutral arbitrator, the case record states.

The hearing date was pushed back several times, and in January 2022, the company told the union it did not intend to arbitrate the grievance, according to the case record. The company's request for a declaration exempting it from arbitration followed.

Representatives of the parties did not immediately respond to requests for comment Wednesday.

Sysco is represented by Mark A. Carter and David W. Patton of Dinsmore & Shohl LLP.

Teamsters Local 135 is represented in-house by David T. Vlink.

The case is Sysco Indianapolis LLC v. Local 135 International Brotherhood of Teamsters, case number 1:22-cv-00131, in the U.S. District Court for the Southern District of Indiana.

--Editing by Emma Brauer.

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