

RANDIE THOMPSON QUOTED IN BLOOMBERG LAW ABOUT HEALTH PLAN PRESCRIPTION DRUG LAWSUIT

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Tulsa, Okla (March 24, 2025) - Randie Thompson, who practices in the Employee Benefits practice group at Conner & Winters, was recently quoted in the Bloomberg Law article, "Evolving Litigation Tactics Emerge in JPMorgan Drug Cost Case".

In the article, Randie commented on recent developments in several class action lawsuits, including those against Wells Fargo, JPMorgan, and Johnson & Johnson, involving employers that use third-party Pharmacy Benefit Managers (PBMs) for their employee health plans. She discussed the complex ways that prescription drug prices are determined by PBM arrangements and the hurdles that such litigation will likely need to overcome in advancing their claims.

The following is an excerpt from the article, which you can read in its entirety on Bloomberg Law (subscription required).

But Lewandowski's complaint still doesn't account for the broad nature of PBM contracts, said Randi Thompson, who is of counsel at Conner & Winters LLP. Nothing in ERISA requires plans to negotiate the lowest possible drug price, she said.

PBMs negotiate drug prices with manufacturers and develop the list of covered drugs under an insurance plan, in addition to determining patient copays and access standards. The companies offer a range of payment options and programs that employers can opt into based on their size and the needs of their workforce.

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“We can’t really look at any discrete incidents to understand the economic totality of these arrangements,” Thompson said. “What an employee pays retail for a prescription drug—that’s only one piece of how this operates.”

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If the case survives a motion to dismiss, any potential documents discussing those client concerns will likely come to light in discovery. That could be “pretty damning,” Deacon said.

But Thompson said the attack on Haven lacks the punch that the plaintiffs’ firms of Cohen Milstein Sellers & Toll PLLC and Fairmark Partners LLP were aiming for.

“I read that more as an indictment against the health-care industry as a whole,” she said.

...

The complex and opaque nature of insurance plan design and the variations between plans will also prevent plaintiffs’ attorneys from easily replicating any success, Thompson said.

“There’s not going to be a sort of cut-and-paste phenomenon for pursuing more of this type of litigation going forward,” she said. “It’s going to require a pretty intensive evaluation and understanding of each plan’s operations. And the information that plaintiffs really need to make their cases—it’s difficult to obtain, if not impossible.”