

## Resource Center

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

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**Tulsa, Okla (August 5, 2024)** - Randie Thompson, who practices in the Employee Benefits practice group at Conner & Winters, was recently quoted in the Bloomberg Law article, "Wells Fargo Ex-Workers Focus on Fees in Latest Drug Cost Lawsuit".

Randie was interviewed in order to provide background and context about a lawsuit filed by former Wells Fargo employees alleging that the company breached its fiduciary duty. The plaintiffs argue that the company overpaid for prescription drugs under the employee health plan by contracting with one of the nation's largest pharmacy benefit manager (PBM), Express Scripts.

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

This combination of claims builds upon the Johnson & Johnson complaint's focus on drug price comparisons, extending the scrutiny of Express Scripts to the per-participant fees comparable plans charge for the PBM's services.

The claim appears to be a novel argument in these types of cases, according to Randie Thompson, who represents plan sponsors at Conner & Winters LLP. That alone bears watching, she said.

"Group health plans have sort of lagged behind their retirement plan counterparts both in terms of regulatory oversight and litigation, but with the dollars at stake here I could see litigation really catching up in a hurry," she said.

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The four named plaintiffs suing Wells Fargo, however, each listed costly drugs they took as examples of direct harm. The high administrative fees they cited add another layer to claims of higher costs through increased premiums and co-pays.

The complaint compared the \$135.81 annual per-participant administrative fee that Wells Fargo paid Express Scripts to those paid by other companies, ranging from \$19.86 to \$92.78. But those fees "may not tell the entire story," Thompson said.

"These are just kind of snippets out of the contractual arrangement," she said. "To evaluate the arrangement, we have to look to the totality of the economic circumstances, and that's what's so challenging with these PBM arrangements in the first place."