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## IBM Settles Small Part Of Pension Suit

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**International Business Machines Corp.** settled a small part of a massive lawsuit involving its cash-balance pension plan for an undisclosed sum, according to the notice of settlement filed in Illinois Wednesday.

IBM employees filed the suit, Kathi Cooper v. IBM, in 1999, saying IBM violated rules against age discrimination and other aspects of pension law when it made various changes to its pension plan in the 1990s.

Last year, U.S. District Court Judge G. Patrick Murphy in the Southern District of Illinois ruled that IBM discriminated against older workers when it converted to a cash-balance plan in 1999. He could rule at any time on how much money IBM will have to pay to roughly 130,000 current and former employees.

This week's partial settlement of the case involved only one of the claims, a "termination" claim, and doesn't involve the claim of age discrimination, nor other claims in the suit.

The partial settlement affects several thousand employees who were employed by IBM on July 1, 1999, and terminated employment before they completed five years of service, and therefore weren't vested in their pensions.

The plaintiffs maintained that when IBM changed the pension to a cash-balance plan, effective July 1, 1999, the move resulted in a "partial termination" of the pension. Under pension law, when a company terminates a pension plan, everyone immediately becomes vested in the pension, even if they haven't been employed at the company long enough to qualify for vesting.


The parties will file a formal settlement agreement with the court within several weeks, and have requested a preliminary approval hearing for the third week of October.

To settle all the claims, including the age-discrimination issue, IBM has estimated it would have to recalculate its pensions and pay out an additional \$6.5 billion to current and future retirees. This would be the largest pension judgment in history.

Once the judge files his decision about the remedy, IBM can appeal. "We believe IBM will be successful on appeal and that our plans will be found fair and legal," spokeswoman Kendra Collins said in a written statement.

But even if IBM ultimately loses, it will suffer no cash flow impact, because the money would be paid

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from the pension plan, which is well funded, and the amounts for current employees won't be paid until they leave the company, years from now in many cases. IBM confirms the plan is well funded and that any additional benefits would be paid from pension-plan assets years down the line, without affecting the company's cash flow.

Whether IBM ultimately wins or loses, the court decision is unlikely to affect other companies with cash-balance plans because Congress is likely to pass legislation changing the law, saying that cash-balance plans aren't inherently age-discriminatory. While legislation isn't expected this year, it would effectively insulate other companies from lawsuits.

A change in the law, even if retroactive, wouldn't help IBM because Congress can't enact legislation reversing a federal-court judgment based on the law in effect when the suit was brought. IBM has said discussing legislative changes would be "speculative."

--Theo Francis contributed to this article.

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