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## \$4.7M Settlement Approved for IBM Workers Represented by Small Manhattan Firm

The ruling capped nearly six years of litigation in the case, which was complicated by new pleading standards and the death of a Manhattan federal judge.

By Tom McParland | July 21, 2021



**The IBM logo is seen on the top of the IBM GDC Romania headquarter building, in Bucharest, Romania. Credit: LCV/Shutterstock.com**

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A Manhattan federal judge said Wednesday that she would approve a \$4.7 million settlement for a class of IBM employees in a long-running lawsuit that worked its way all the way up to the U.S. Supreme Court and back again.

The ruling, from U.S. District Judge Colleen McMahon of the Southern District of New York, capped nearly six years of litigation in the case, which was complicated by heightened standards for pleading violations of fiduciary duties under the Employee Retirement Income Security Act of 1974.

The suit, captioned *Jander v. Retirement Plans Committee of IBM*, was also marred by tragedy, after U.S. District Judge William H. Pauley III, who had been assigned to the case, died earlier this month at the age of 68.

McMahon, meanwhile, suddenly stepped in to conduct a fairness hearing on the plaintiffs' motion for settlement, as well as a \$1.4 million fee request by the Zamansky law firm, a small four-attorney shop in Manhattan.

During the 20-minute hearing Wednesday morning, McMahon commended counsel for their work in closing out the case, saying "you were in a most uncomfortable place a few weeks ago, but you have rallied and we have gotten this across the finish line."

An opinion approving the settlement and fees was expected later in the week.

Samuel Bonderoff, a Zamansky partner who represented the plaintiffs, said that the \$4.7 million settlement represented about one-fourth of recoverable damages in the case, an "extremely good" result given the "obstacles" to succeeding on his clients' claim.

The outcome, he added, was also impressive in light of his firm's size.

"We litigated this case fairly leanly," Bonderoff said. "Most of the work on this case was done by just a couple of lawyers."

The IBM defendants were represented by a team of attorneys from Davis, Polk & Wardwell.

The lawsuit, filed in May 2015, alleged that IBM's retirement plans committee breached their duties by not protecting its 401(k) bonus plan against the company's inflated stock price. When IBM's price fell on news that its stock had been overvalued, employees sued for damages, citing a "failure to prudently and loyally" manage the plan's assets.

Such suits have been exceedingly difficult for plaintiffs, after the Supreme Court in 2016 enacted a new standard for pleading claims against fiduciaries of employee stock ownership plans. Since then, only the *Jander* case has survived a motion to dismiss.

The U.S. Court of Appeals for the Second Circuit in 2018 reversed a trial court decision tossing the case, in a decision that went up to the Supreme Court on appeal.

The high court, in January 2020, vacated the Second Circuit's ruling and remanded the case with instructions to review the parties' arguments. The appeals court reinstated its original opinion last June.

The parties announced their settlement in April, following negotiations before JAMS mediator Robert Meyer.

In approving the agreement, McMahon thanked the parties for helping her get “up to speed,” and acknowledged the long odds the plaintiffs and their counsel faced in pressing their claims.

“It’s a very good settlement,” she said, “considering all of the potential impediments to recovery that have been raised by recent changes in the law.”

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