

## Corporate & Financial Weekly Digest

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### **Courts Lack Jurisdiction To Review Determinations By Arbitration Panels Under the Railway Labor Act**

*Co-authored by [Dean N. Razavi](#).*

The U.S. Court of Appeals for the Fifth Circuit recently held that collective bargaining agreements cannot provide for judicial review of the Railway Labor Act's (RLA) exclusive and mandatory dispute resolution process. Retired Continental Airline pilots alleged that Continental had breached the retirees' pension plan by improperly calculating their salaries when determining their pension benefits. The collective bargaining agreement (CBA) between the parties required that, for "minor disputes" involving the interpretation of the pension plan, the retirees must seek review through arbitration before a System Board composed of two representatives from the company and two representatives from the pilot's union. Although resolution of minor disputes through the System Board was required, the CBA also provided that, if the System Board's ruling was adverse to a retiree, the retiree could seek judicial review of the dispute under the Employee Retirement Income Security Act (ERISA).

The retirees received an adverse ruling from the System Board, and, as they were expressly permitted to do both by the CBA and the System Board's decision, commenced an action in federal court under ERISA challenging the ruling. The federal district court for the Southern District of Texas dismissed the action for lack of subject matter jurisdiction and the Fifth Circuit affirmed.

The Fifth Court acknowledged that, when drafting a collective bargaining agreement subject to the RLA, the parties may identify issues that are not subject to review by the System Board. Disputes involving issues that are not reviewable by the System Board are subject to ERISA and may be challenged in federal court. However, once the CBA provides for review of the dispute through arbitration before a System Board, that review is exclusive and the dispute cannot be said to be governed by ERISA. Since private parties cannot confer subject matter jurisdiction on the federal courts, the fact that the CBA provided for judicial review of the System Board's decision did not mandate a different result. In so holding, the Court noted that allowing judicial review of System Board determinations "would destroy the purposes of the RLA in promoting an efficient and comprehensive framework for resolving labor disputes."

*Ballew v. Continental Airlines, Inc.*, No. 11-20279 (5th Cir. Jan. 31, 2012).

Katten Muchin Rosenman LLP

Charlotte Chicago Irving London Los Angeles New York Washington, DC