

General Docket

US Court of Appeals for the Seventh Circuit

Court of Appeals Docket #: 05-3588

Filed: 9/6/05

Nsuit: 3791 Emp Retire Income Secur-Fed Q.

Cooper, Kathi, et al v. IBM Personal Pension, et al

Appeal from: United States District Court

Lower court information:

District: 0754-3 : 99 C 829

Ordering Judge: G. Patrick Murphy, Chief Judge

Court Reporter: Molly N. Clayton, Court Reporter

Date Filed: 11/1/99

Date order/judgment: 8/16/05

Date NOA filed: 8/30/05

Fee status: paid

Prior cases:

None

Current cases:

Related:	Lead	Member	Start	End
	05- 3588	05- 3882	9/30/05	8/7/06
	05- 3588	06- 1260	1/19/06	8/7/06
	05- 3882	06- 1260	8/7/06	

Docket as of January 22, 2007 11:00 pm

Page 1

05-3588 Cooper, Kathi, et al v. IBM Personal Pension, et al

KATHI COOPER

Plaintiff - Appellee

Lee A. Freeman, Jr.

FAX 312/822-0870

312/222-5100

Suite 3200

[COR LD NTC ret]

FREEMAN, FREEMAN & SALZMAN

401 N. Michigan Avenue

Chicago, IL 60611-4207

USA

BETH HARRINGTON

Plaintiff - Appellee

Lee A. Freeman, Jr.

(See above)

[COR LD NTC ret]

MATTHEW HILLESHEIM

Plaintiff - Appellee

Lee A. Freeman, Jr.

(See above)

[COR LD NTC ret]

v.

IBM PERSONAL PENSION PLAN

Jeffrey G. Huvelle

Defendant - Appellant

FAX 202/778-5526
202/662-5526
[COR LD NTC ret]
COVINGTON & BURLING
1201 Pennsylvania Avenue N.W.
Washington, DC 20004-2401
USA

IBM CORPORATION
Defendant - Appellant

Jeffrey G. Huvelle
(See above)
[COR LD NTC ret]

AMERICAN BENEFIT COUNCIL
Amicus Curiae

Kent A. Mason
FAX 202/638-2650
202/347-2230
Suite 1200
[COR LD NTC ret]
DAVIS & HARMAN
1455 Pennsylvania Avenue
Washington, DC 20004
USA

AT&T CORPORATION
Amicus Curiae

Kent A. Mason
(See above)
[COR LD NTC ret]

BP AMERICA, INCORPORATED
Amicus Curiae

Kent A. Mason
(See above)
[COR LD NTC ret]

Docket as of January 22, 2007 11:00 pm

Page 2

05-3588 Cooper, Kathi, et al v. IBM Personal Pension, et al

ELECTRONIC DATA SYSTEMS
CORPORATION
Amicus Curiae

Kent A. Mason
(See above)
[COR LD NTC ret]

HONEYWELL INTERNATIONAL,
INCORPORATED
Amicus Curiae

Kent A. Mason
(See above)
[COR LD NTC ret]

PHILLIP ENGERS
Amicus Curiae

Stephen R. Bruce
FAX 202/371-0121
202/371-8013
Suite 210
[COR LD NTC ret]
805 15th Street N.W.
Washington, DC 20005

DONALD NOERR
Amicus Curiae

Stephen R. Bruce
(See above)
[COR LD NTC ret]

WARREN MCFALL Amicus Curiae	Stephen R. Bruce (See above) [COR LD NTC ret]
GERALD SMIT Amicus Curiae	Stephen R. Bruce (See above) [COR LD NTC ret]
WAYNE TOMLINSON Amicus Curiae	Stephen R. Bruce (See above) [COR LD NTC ret]
GARY MUCKELROY Amicus Curiae	Stephen R. Bruce (See above) [COR LD NTC ret]
ALICE BALLESTROS Amicus Curiae	Stephen R. Bruce (See above) [COR LD NTC ret]
AMERICAN ASSOCIATION OF RETIRED PERSONS Amicus Curiae	Mary E. Signorille FAX 202/434-6424 202/434-2060 [COR LD NTC ret] AARP FOUNDATION LITIGATION 601 E Street N.W. Washington, DC 20049 USA

Docket as of January 22, 2007 11:00 pm

Page 3

05-3588 Cooper, Kathi, et al v. IBM Personal Pension, et al

KATHI COOPER, BETH HARRINGTON
and MATTHEW HILLESHEIM,
Plaintiffs - Appellees

v.

IBM PERSONAL PENSION PLAN
and IBM CORPORATION,
Defendants - Appellants

Docket as of January 22, 2007 11:00 pm

Page 4

05-3588 Cooper, Kathi, et al v. IBM Personal Pension, et al

9/6/05 Private civil case docketed. [05-3588] [1899439-1]
Transcript information sheet due 9/16/05. Appellant's brief
due 10/17/05 for IBM Personal Pension, for IBM Corporation.
(amyd) [05-3588]

9/6/05 Filed Appellant IBM Personal Pension, Appellant IBM

Corporation docketing statement. [05-3588] [1899442-1]
(amyd) [05-3588]

9/12/05 ORDER: Pursuant to Circuit Rule 33, briefing will proceed as follows: [1899439-1] SCO [05-3588] Appellants' brief due 10/27/05 for IBM Corporation, for IBM Personal Pension . Appellees' brief due 11/28/05 for Matthew Hillesheim, for Beth Harrington, for Kathi Cooper . Appellants' reply brief due 12/12/05 for IBM Corporation, for IBM Personal Pension . (hard) [05-3588]

9/27/05 Terminated attorney Steven A. Katz for Matthew Hillesheim, attorney Steven A. Katz for Beth Harrington, attorney Steven A. Katz for Kathi Cooper and added attorney Lee A. Freeman, Jr. per disclosure statement. Disclosure statement filed for Appellee Kathi Cooper, Appellee Beth Harrington, Appellee Matthew Hillesheim by Lee A. Freeman. [05-3588] [1899439-1] (kell) [05-3588]

9/27/05 Disclosure Statement filed by Robert D. Wick for Appellant IBM Corporation, Appellant IBM Personal Pension. [05-3588] [1899439-1] (kell) [05-3588]

10/12/05 Filed motion by Appellee Kathi Cooper in 05-3588, Appellee Beth Harrington in 05-3588, Appellee Matthew Hillesheim in 05-3588 to extend time to file appellee's brief. [1912022-1] [05-3588] (kell) [05-3588]

10/13/05 ORDER issued GRANTING agreed motion by appellees for modification of briefing schedule. Briefing shall proceed as follows: [1912022-1] CMD [05-3588] Appellant's brief due 10/27/05 for IBM Corporation, for IBM Personal Pension. Appellee's brief due 12/2/05 for Matthew Hillesheim, for Beth Harrington, for Kathi Cooper. Appellant's reply brief due 12/20/05 for IBM Corporation, for IBM Personal Pension. (kell) [05-3588]

10/28/05 Filed 15c appellant's brief by IBM Personal Pension in 05-3588, IBM Corporation in 05-3588. Disk filed. [05-3588] [0-0] (trot) [05-3588]

10/28/05 Filed 10c vols. I & II appendix by Appellant IBM Personal Pension in 05-3588, Appellant IBM Corporation in 05-3588. [05-3588] [1917485-1] (trot) [05-3588]

Docket as of January 22, 2007 11:00 pm

Page 5

05-3588 Cooper, Kathi, et al v. IBM Personal Pension, et al

10/28/05 Terminated attorney Robert D. Wick for IBM Corporation in 05-3588, attorney Robert D. Wick for IBM Personal Pension in 05-3588, attorney David H. Remes for IBM Corporation in 05-3882, attorney David H. Remes for IBM Personal Pension in 05-3882 and added attorney Jeffrey G. Huvelle per disclosure statement. Disclosure statement filed for

Appellant IBM Personal Pension in 05-3588, Appellant IBM Corporation in 05-3588, Appellee IBM Personal Pension in 05-3882, Appellee IBM Corporation in 05-3882 by Jeffrey G. Huvelle in 05-3588, Jeffrey G. Huvelle in 05-3882. [05-3588, 05-3882] [1908653-1] (kell) [05-3588 05-3882]

- 11/2/05 Disclosure Statements filed by Glen D. Nager and Donald J. Rosenberg for Appellant IBM Corporation, Appellant IBM Personal Pension in 05-3588. [05-3588] [1908653-1] (amyd) [05-3588]
- 11/3/05 Filed motion by Young Women's Christian Association Retirement Fund Inc. to file amicus brief. [1920328-1] 15c amicus brief tendered. [0-0] [05-3588] (hard) [05-3588]
- 11/4/05 Filed motion by Monsanto Company and the Chamber of Commerce of the United States of America to file amicus brief. [1920346-1] 15c amicus brief tendered. [0-0] [05-3588] (hard) [05-3588]
- 11/7/05 Filed motion by to file amicus brief on behalf of American Benefits Council, AT&T Corporation, BP America, Inc., Electronic Data Systems Corp., El Paso Corp., Honeywell Int'l. Inc., Mercer Human Resource Consulting, Inc., Erisa Industry Committee, Watson Watt Worldwide and Wells Fargo & Company. [1921175-1] [05-3588] (kell) [05-3588]
- 11/8/05 ORDER re: (1) Motion for leave to file brief amici curiae on behalf of American Benefit Counsel, AT&T Corporation, BP America Inc., Electronic Data, Honeywell Int'l, Inc., Mercer Human Resource Consulting, Inc., Erisa Industry Committee, Watson Wyatt Worldwide, Wells Fargo & Company in support of appellants Urging Reversal. (2) Motion for leave to file amicus curiae brief on behalf of the Young Women's Christian Association Retirement Fund, Inc. (3) Motion of Monsanto Company and the Chamber of Commerce of the United States of America for leave to file brief amici curiae. #1 is GRANTED. The clerk of this court shall file INSTANTER the tendered amicus brief and distribute to the assigned merits panel. #2 and #3 are DENIED. [1920346-1] [1920328-1] (kell) [05-3588]

Docket as of January 22, 2007 11:00 pm

Page 6

05-3588 Cooper, Kathi, et al v. IBM Personal Pension, et al

- 11/8/05 THIS CAUSE CONSISTS OF MORE THAN 5 PARTIES FOR EITHER SIDE. The following are those parties to this cause as reflected on the District Court docket, yet are not reflected on the Appellate docket/caption for administrative purposes: AMICI CURIAE: El Paso Corp., Mercer Human Resource Consulting, Inc., Erisa Industry Committee, Watson Wyatt Worldwide and Wells Fargo & Company. [05-3588] [1908653-1] (kell) [05-3588]

11/8/05 Filed 15c amicus brief by Amicus Curiae American Benefit Cou, AT&T Corporation, BP America Inc, Electronic Data, Honeywell Int'l Inc in 05-3588, per order. Electronically transmitted. [05-3588] [0-0] (kare) [05-3588]

11/8/05 Disclosure Statement filed by Kent A. Mason for Amicus Curiae Honeywell Int'l Inc, Amicus Curiae Electronic Data, Amicus Curiae BP America Inc, Amicus Curiae AT&T Corporation, Amicus Curiae American Benefit Cou in 05-3588. [05-3588] [1908653-1] (hudk) [05-3588]

12/2/05 Filed 15c appellee's brief by Kathi Cooper in 05-3588, Beth Harrington in 05-3588, Matthew Hillesheim in 05-3588. Disk filed. [05-3588] [0-0] (odea) [05-3588]

12/2/05 Filed 10c appendix by Appellee Kathi Cooper in 05-3588, Appellee Beth Harrington in 05-3588, Appellee Matthew Hillesheim in 05-3588 . [05-3588] [1929510-1] (odea) [05-3588]

12/9/05 Filed motion by Phillip Engers, Donald Noerr, Warren McFall and Gerals Smit, Wayne tomlinson, Gary Muckelroy and Alice Ballesteros to file amicus brief. [1931815-1] 15c amicus brief tendered. [0-0] [05-3588] (hard) [05-3588]

12/13/05 Disclosure Statement filed by attorney Douglas R. Sprong for appellees. [05-3588] [1908653-1] (kell) [05-3588]

12/13/05 Disclosure Statement filed by attorney Robert F. Hill for appellees. [05-3588] [1908653-1] (kell) [05-3588]

12/13/05 Disclosure Statement filed by attorney William K. Carr for appellees. [05-3588] [1908653-1] (kell) [05-3588]

12/14/05 ORDER issued GRANTING motion to file amicus brief. The clerk of this court is directed to file the tendered amici brief. [1931815-1] SCR [05-3588] (kell) [05-3588]

12/14/05 Filed 15c amicus brief by Amicus Curiae Phillip Engers in 05-3588, Amicus Curiae Donald Noerr in 05-3588, Amicus Curiae Warren McFall in 05-3588, Amicus Curiae Gerald Smit in 05-3588, Amicus Curiae Wayne Tomlinson in 05-3588, Amicus Curiae Gary Muckelroy in 05-3588, Amicus Curiae Alice Ballestros in 05-3588, Amicus Curiae AARP in 05-3588, per order. Disk filed. [05-3588] [0-0] (scze)

Docket as of January 22, 2007 11:00 pm

Page 7

05-3588 Cooper, Kathi, et al v. IBM Personal Pension, et al

[05-3588]

12/14/05 Disclosure Statement filed by Mary E. Signorille for Amicus Curiae AARP in 05-3588. [05-3588] [1908653-1] (kell)

[05-3588]

12/21/05 Filed 15c appellant's reply brief by IBM Personal Pension in 05-3588, IBM Corporation in 05-3588. Disk filed. [05-3588] [0-0] (scze) [05-3588]

1/6/06 ORDER: Argument set for Thursday, February 16, 2006 at 10:00 a.m. Each side limited to 20 minutes. [05-3588] [1940204-1] (andb) [05-3588]

1/12/06 Oral argument confirmation card filed by attorney(s) Lee A. Freeman for Appellee Kathi Cooper, Appellee Beth Harrington, Appellee Matthew Hillesheim. [05-3588] [1899439-1] (scze) [05-3588]

1/20/06 Original record on appeal filed. Contents of record: 11 vol. pleadings; 11 vol. transcripts; 11 vol. exhibits. [05-3882] [1945591-1] (cove) [05-3882]

2/8/06 Oral argument confirmation form filed by attorney(s) Jeffrey G. Huvelle in 05-3588 for Appellant IBM Personal Pension in 05-3588, Appellant IBM Corporation in 05-3588. [05-3588] [1946470-1] (scze) [05-3588]

2/9/06 Oral argument confirmation card filed by attorney(s) Jeffrey G. Huvelle in 05-3588 for Appellant IBM Personal Pension in 05-3588, Appellant IBM Corporation in 05-3588. [05-3588] [1946470-1] (scze) [05-3588]

2/16/06 Case heard and taken under advisement by panel: Circuit Judge William J. Bauer, Circuit Judge Frank H. Easterbrook, Circuit Judge Daniel A. Manion. [05-3588] [1955601-1] (scze) [05-3588]

2/16/06 Case argued by Jeffrey G. Huvelle for Appellant IBM Corporation, Appellant IBM Personal Pension in 05-3588, Lee A. Freeman for Appellee Matthew Hillesheim, Appellee Beth Harrington, Appellee Kathi Cooper in 05-3588. [05-3588] [1946470-1] (scze) [05-3588]

2/23/06 MANDATE ISSUED. Record on appeal to be retained in case no. 05-3588. [05-3882] [1946470-1] (stef) [05-3882]

2/23/06 MANDATE ISSUED. No record to be returned. [06-1260] [1908653-1] (stef)

4/6/06 Filed Appellee Kathi Cooper in 05-3588, Appellee Beth Harrington in 05-3588, Appellee Matthew Hillesheim in 05-3588 Citation of Additional Authority, per CR 28(e). Dist. [05-3588] [1972416-1] (kare) [05-3588]

Docket as of January 22, 2007 11:00 pm

Page 8

4/12/06 Filed Appellant IBM Personal Pension in 05-3588, Appellant IBM Corporation in 05-3588 response to Citation of Additional Authority, per CR 28(e), filed by appellees on 4/6/06. Dist.[05-3588] [1975165-1] (kare) [05-3588]

5/12/06 Filed Appellee Kathi Cooper in 05-3588, Appellee Beth Harrington in 05-3588, Appellee Matthew Hillesheim in 05-3588 Citation of Additional Authority, per CR 28(e). Dist. [05-3588] [1985362-1] (kare) [05-3588]

5/17/06 Filed Appellant IBM Personal Pension in 05-3588, Appellant IBM Corporation in 05-3588 Citation of Additional Authority, per CR 28(e). Dist.[05-3588] [1986964-1] (kare) [05-3588]

8/7/06 Filed opinion of the court by Judge Easterbrook. The judgment of the district court is REVERSED, and the case is REMANDED with directions to enter judgment in IBM's favor. Circuit Judge William J. Bauer, Circuit Judge Frank H. Easterbrook, Circuit Judge Daniel A. Manion. [05-3588] [1946470-1] (hard) [05-3588]

8/7/06 ORDER: Final judgment filed per opinion. With costs: y. [05-3588] [2012771-1] (hard) [05-3588]

8/21/06 Disclosure Statements filed by Steven A. Katz, James T. Malysiak and John H. Evans for Appellee Matthew Hillesheim, Appellee Beth Harrington, Appellee Kathi Cooper. [05-3588] [1899439-1] (amyd) [05-3588]

8/21/06 Filed 30c Petition for Rehearing and Petition for Rehearing Enbanc by Appellee Kathi Cooper, Appellee Beth Harrington, Appellee Matthew Hillesheim. Dist. [05-3588] [2017707-1] (amyd) [05-3588]

9/1/06 ORDER: Appellee Kathi Cooper, Appellee Beth Harrington, Appellee Matthew Hillesheim Petition for Rehearing and Petition for Rehearing Enbanc is DENIED. [05-3588] [2017707-1] (amyd) [05-3588]

9/11/06 MANDATE ISSUED AND ENTIRE RECORD RETURNED. (Contents returned: 11 vol. pleadings; 11 vol. transcripts; 11 vol. exhibits.) [05-3588] [1899439-1] (cove) [05-3588]

10/10/06 Filed mandate receipt. [05-3588] [2033266-1] (scze) [05-3588]

12/15/06 Filed notice from the Supreme Court of the filing of a Petition for Writ of Certiorari. Supreme Court Case No.: 06-760. [05-3588] [2055729-1] (amyd) [05-3588]

1/22/07

Filed order from the Supreme Court DENYING the Petition for Writ of Certiorari. Supreme Court Case No.: 06-760. Justice Breyer took no part in the consideration or decision of this petition. [05-3588] [2067147-1] (mank) [05-3588]

Docket as of January 22, 2007 11:00 pm

Page 10