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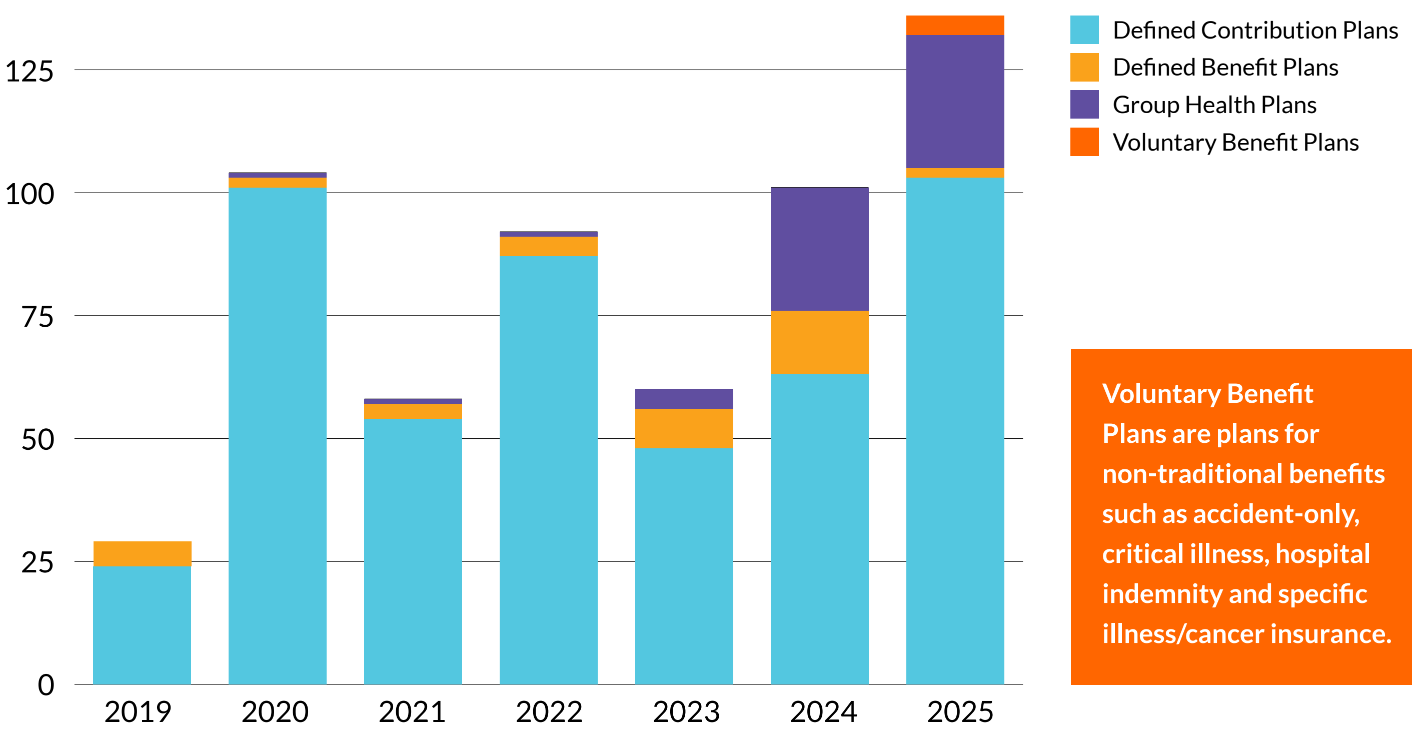
ERISA Class Action Trends in 2025[1]

It's not just retirement plans that are under scrutiny anymore — group health plans have experienced a significant increase in class action lawsuits, and by the end of 2025, even voluntary benefit plans became targets.

Trending ERISA Class Action Filings Hit Record Levels in 2025



Voluntary Benefit Plans are plans for non-traditional benefits such as accident-only, critical illness, hospital indemnity and specific illness/cancer insurance.

Lightning Can Strike Twice: Companies are being sued repeatedly for unrelated claims and sometimes even over different plans. At least 48 companies that were sued in a prior ERISA class action were sued again in 2025 for an unrelated ERISA class action.

Types of Claims Filed Against Each Type of Plan

Defined Contribution 401(k) & 403(b) Plans

- Excessive fees of service providers and investments
- Underperformance of investments
- Improper use of plan forfeitures

Defined Benefit Pension Plans

- Transfer of pension obligations to "risky" 3rd party insurers to provide annuities
- Use of outdated mortality data and conversion factors to calculate annuities

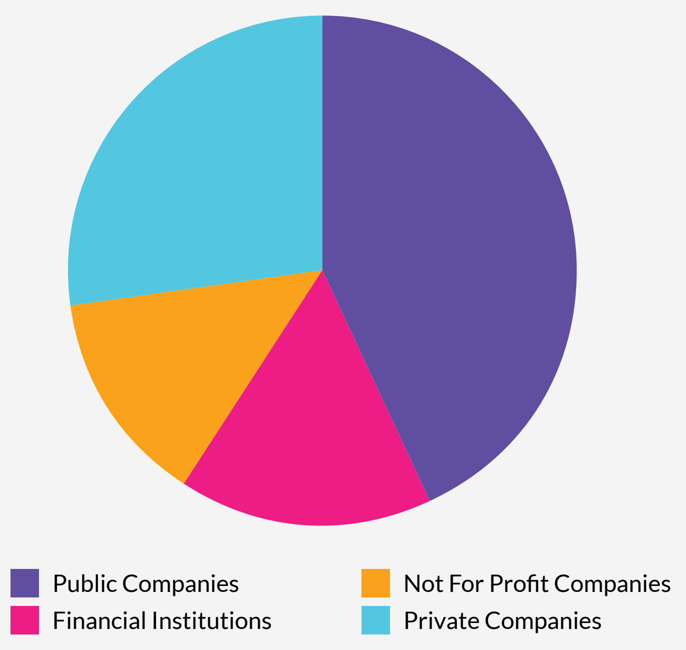
Group Health Plans

- Excessive pharmacy benefit management (PBM) fees and prescription drug costs
- Excessive and discriminatory tobacco surcharges to cover plan expenses

Voluntary Benefit Plans

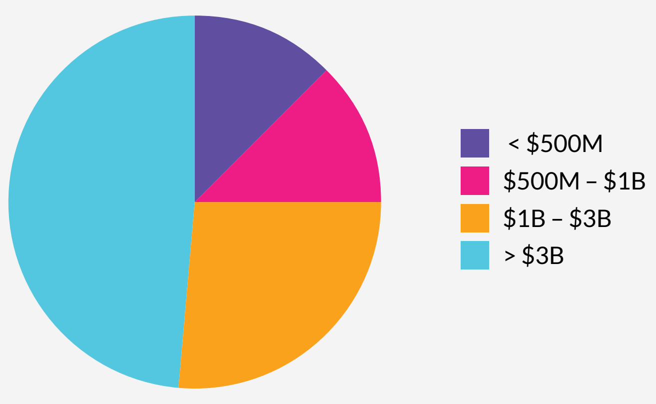
- Excessive fees and expensive coverage
- Prohibited transactions with brokers for coverage placement and plan administration

All Types of Sponsor Companies Sued in Trending ERISA Class Actions in 2025

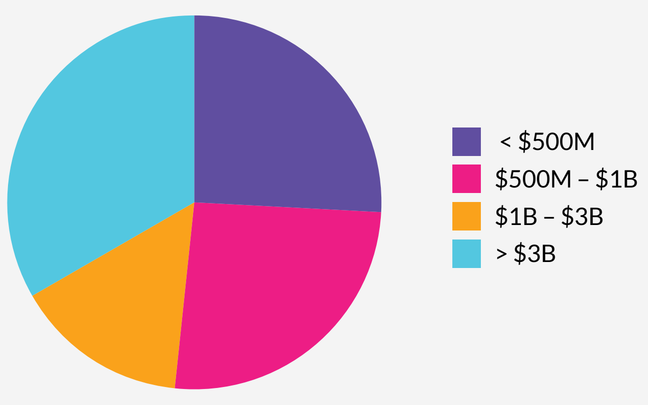


The size of a company's 401(k) or 403(b) plan has no bearing on their risk of being sued over their group health plans. About a quarter of the companies who were sued over their group health plans had 401(k) or 403(b) plans with less than half a billion in plan assets.

Size of Defined Contribution Plans Sued in Trending ERISA Class Actions in 2025



Size of Defined Contribution Plans Sponsored by Companies Who Were Sued in Trending ERISA Class Actions Involving Their Group Health Plans in 2025



Low Dismissal Rates on Motion to Dismiss (2020–2025)

Dismissal Rates for Traditional Excessive Fee Claims: 30%

Dismissal Rates for Tobacco Surcharge Claims: 7%

Motions to Dismiss are important, because they're the first chance to get the case dismissed and avoid millions of dollars in future defense costs.

Millions of Dollars in Average Defense Costs for ERISA Class Actions[2]

Cost of Motion to Dismiss
$500,000 - $1,000,000
(assuming litigation is stayed while motion is pending)

Cost of Motion for Summary Judgment/Class Certification
Additional
$3,000,000–$8,000,000

Cost of Trial
Additional
$2,000,000 - $5,000,000
(excluding appellate work)

There is often little correlation between the costs to defend a case and the merits of a case.

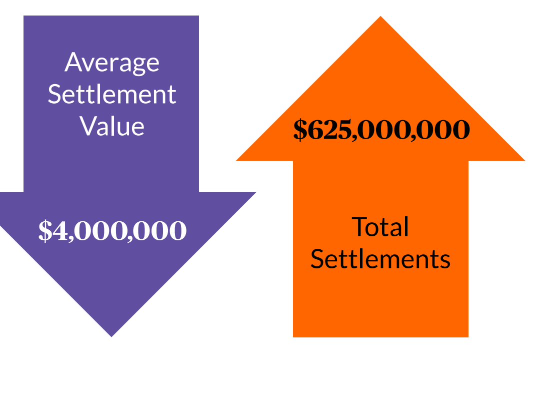
Because there is no automatic stay when a Motion to Dismiss is filed, companies are often forced to litigate while the Court considers their Motion to Dismiss, which can take a year or more, costing companies millions of dollars in the interim. In fact, one company incurred $4,000,000 in defense costs by the time the Court dismissed the suit for failure to state a claim.

Defense costs can outstrip settlements. Here are some examples:

Approximate Settlement Amount	Approximate Defense Costs
$1,500,000	$3,300,000
$900,000	$4,000,000
$300,000	$4,400,000

Average Settlement Amount of Trending ERISA Class Actions (2020-2025)

Average settlement amounts have been coming down in recent years, with an average settlement value of $4,000,000. Although average settlements are down, total settlements are growing rapidly due to the record number of lawsuits, with over $625,000,000 in total settlements for trending ERISA class actions filed since 2020. This number will increase as more of these cases settle.



Managing ERISA Class Action Exposure

While no plan is entirely safe from attack, consider the following risk management plan:

Establish, follow and thoroughly document a robust fiduciary process for selecting and monitoring plan providers, fees, expenses and investments.

Retain an expert to assist with loss prevention and training plan fiduciaries. **Chubb Insureds have access to discounted loss prevention services.** Chubb Loss Prevention Services[3]

Obtain adequate Fiduciary Liability Insurance from a trusted, stable carrier like Chubb, the industry leader with almost 50 years of claims experience in Fiduciary Liability Insurance. Get a Quote.

Become more familiar with claims trends, fiduciary insurance and best practices by visiting Chubb's Fiduciary Insurance Solutions. Chubb Fiduciary Liability Insurance

[1] ERISA is the Employee Retirement Income Security Act of 1974. This data does not include ESOP suits. The data contained in this report reflects ERISA class actions brought against plan sponsors and their internal fiduciaries (i.e. the parties that are typically protected by Fiduciary Liability Insurance). It does not include ERISA class actions filed solely against plan service providers, such as recordkeepers, investment managers, etc. This data is based on Chubb's best efforts to monitor these matters industry-wide, but Chubb makes no representations or warranties as to the completeness or accuracy of the data.

[2] Defense costs vary widely and not publicly available. These are good faith estimates based on the information currently available.

[3] The services referenced are provided by a third-party vendor not affiliated with Chubb. The fact that offers and potential discounts may be made available by the third-party vendor is not an indication that insurance coverage is available under any Chubb policy for any particular incident. Discounts on products and services offered by this vendor are available only to Chubb policyholders with current in-force policies and are subject to applicable insurance laws. For products and services provided, the policyholder and third-party vendor would enter into a vendor relationship directly. Chubb will not be involved in the policyholder's decision to purchase services and has no responsibility for services that may be provided.