

Please see the addendum on Page 4 for two additional questions and answers as of Nov. 10, 2020.

Q: *Could you provide more information about the legal action being taken? What was the basis of the lawsuit and the motivations of the people who filed it?*

- The plaintiffs in the lawsuit were Pastor David Bacon, Pastor Timothy Hepner, Ruth Dold and Sharon Hvam.
- While we cannot speak to the specific motivations of the plaintiffs, the lawsuit filed against the ELCA Board of Pensions was one of many initiated against large 403(b) and 401(k) retirement plans by Schlichter Bogard & Denton.
- Similar lawsuits were filed against Boeing, MIT, Johns Hopkins University, Oracle, Ameriprise Financial, and Vanderbilt University, among other corporations, universities, and organizations.
- Generally, these lawsuits alleged that investment options in the retirement plans were poorly performing and the administrative expenses were too high.

Q: *Are the allegations true?*

- Portico disagrees strongly with the allegations in the complaint and vigorously defended itself since the lawsuit was filed in March 2015.
- In 2018, the court denied class action certification related to investment performance, based, in part, on expert evidence that the majority of plan members were better off financially in ELCA Retirement Plan funds than in alternative funds cited in the lawsuit.
- We believe the evidence introduced at trial would have clearly demonstrated that we prudently managed the ELCA Retirement Plan.

Q: *Why did Portico agree to a settlement if the allegations aren't true? Does that mean Portico lost the case?*

- A trial in this case was scheduled to begin next year, before a judge in Hennepin County District Court in Minnesota. After years of pursuing a vigorous defense, we agreed to a settlement solely to avoid the continued costs and distraction of litigation, including a protracted trial and potential appeals that could last for years which would not benefit our plan members and beneficiaries.

Q: *Do we need to worry that the retirement plan is inadequate?*

- No. The ELCA Retirement Plan is designed for our ELCA community, and it has served, and will continue to serve, members into retirement and beyond. Portico member satisfaction levels are typically above those reported in the Employee Benefit Research Institute's annual retirement survey.

Q: How are we paying for legal fees and expenses associated with this lawsuit? Are my retirement dollars paying for any of these expenses?

- Not a single dollar from retirement plans or other plan assets was used to pay our law firm or to pay settlement costs. These expenses and costs were largely covered by our insurers and will not affect your own personal retirement investments. All retirement plan assets are held in trust. No trust assets were used to pay for the settlement.

Q: What fiduciary standards and laws are the church and Portico held to in order to protect plan members?

- We follow sound financial management practices and hold ourselves to a high standard of best practices in the industry in order to be a good steward of church and member dollars:
 - We are subject to state fiduciary law upon which ERISA requirements are built. In Portico's case, this is Minnesota trust law and the Minnesota Prudent Investor Act.
 - We have a partnership with outside firms for recordkeeping and managing transactions and for custodial responsibilities.
 - Industry best practices guide the way plans are structured and managed. Portico has a best practice of creating systematic, well-deployed, repeatable processes that are measured for effectiveness, accuracy, and efficiency. These processes undergo cycles of evaluation and improvement consistent with our culture of continuous improvement.
 - An independent Board of Trustees governs the organization and administration of its assets.
 - We have separately managed trusts that are audited annually by a public accounting firm. The audit is reviewed by the Audit Committee of the Board of Trustees, and the audit determination letter is published annually in our annual report.

Q: Why didn't I hear about the lawsuit or settlement directly from Portico?

- We published news articles on our public website (porticobenefits.org) when the lawsuit was filed in 2015 and again when the settlement was reached. In addition, we provided a litigation update in each of our annual reports.
- In lawsuits like these, communication to plan members is managed by the firm representing plan participants. A settlement notice is being mailed and/or emailed to eligible members and beneficiaries from the Settlement Administrator who is working with Schlichter Bogard & Denton.

Q: Who was eligible to be part of the class action settlement?

- Members who participated in the ELCA Retirement Plan any time between March 1, 2009 and Sept. 30, 2019 are class members. Further information about participation was provided directly by email and/or mail from the Settlement Administrator who is working with the plaintiffs' attorney, Schlichter Bogard & Denton.

Q: *What are the terms of the settlement?*

- The net settlement amount is \$11 million. The amount you receive will be paid after expenses, which include plaintiffs' attorney legal fees, administrative fees, taxes, and any other related costs.
- In addition, under the terms of the agreement, we agreed to hire a consultant to review current accounting and cost allocation policies related to the administration of the retirement plan. The cost of hiring the consultant also will be deducted from the net settlement amount.

Q: *Will I receive any money if I am a plan member?*

- If you are an eligible class member, you will receive a notice with more details from the Settlement Administrator who is working with the plaintiffs' attorney, Schlichter Bogard & Denton.
- After expenses are deducted, including plaintiffs' attorney legal fees, administrative fees, taxes, and any other related costs, most eligible class members will receive an average of \$10 to \$150.

Q: *How do I participate in the settlement? Is there anything I need to do or was the email or mailing that I received a formality?*

- More information about the administration of the settlement is being provided from the Settlement Administrator who is working with the plaintiffs' attorney, Schlichter Bogard & Denton.
- As outlined in the settlement notice you received, current participants who had an account balance in the plan as of Sept. 30, 2019, do not need to do anything to participate in the settlement.
- Former participants who were in the plan during the class period and did not have a balance greater than \$0 as of Sept. 30, 2019 or are the beneficiary, alternate payee, or attorney-in-fact of such a person, were required to return a Former Participant Claim Form that was postmarked or electronically filed by **April 27, 2020** to receive a check for your share of the net settlement amount.

Q: *Can I opt out if I don't want to be involved in the settlement?*

- The notice you receive from the Settlement Administrator working with the plaintiffs' attorney states that you are not able to opt out of the settlement.
- If you are a class member, you can tell the court that you do not agree with the settlement or part of it. Specific information about how to do so was provided in the settlement notice you received.

Q: *Where can I find additional information?*

- Portico published a [Message to Members](#) on its public website (porticobenefits.org). In addition, the notice being sent to members from the Settlement Administrator through email or mail references their own website for additional information: <https://elcabop403bsettlement.com/>

Addendum

Q: If I am an eligible plan member, when will I receive a payment from the settlement?

- Payment to eligible plan members will likely occur in late November or December 2020.

Q: How will I receive the payment?

- If you are an eligible plan member and currently have a balance in the ELCA Retirement Plan, your settlement payment will be deposited directly into your plan account. If you do not have a balance in the plan at this time, payment will be made consistent with the Former Participant Claim Form that you submitted.