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Sixth Circuit Holds that ERISA Preempts Tennessee’s Pharmacy Benefit Manager Law (*McKee Foods v. BFP Inc.*)

“This is a welcome result. Allowing States to override ERISA would risk harming the very employees Congress sought to protect.”

— Cory Andrews, WLF General Counsel & Vice President of Litigation

WASHINGTON, DC—The U.S. Court of Appeals for the Sixth Circuit has affirmed a district court’s ruling that the Employee Retirement Income Security Act (ERISA) preempts a Tennessee law that regulates employer-sponsored health plans. The decision was a victory for Washington Legal Foundation, which filed an amicus brief in the case. In its analysis of McKee’s fiduciary duty, the court adopted an argument advanced in WLF’s brief.

The appeal arose from McKee Foods’ lawsuit against Tennessee’s Commissioner of Commerce and Insurance’s, alleging that Tennessee’s any-willing-pharmacy law is preempted under ERISA. The district court granted summary judgment to McKee in May 2025, finding a justiciable dispute and rejecting the Commissioner’s defenses. But the Commissioner appealed, arguing that McKee lacked standing to sue and that Tennessee law should prevail over federal law. The Sixth Circuit roundly rejected those arguments.

In its amicus brief urging affirmance, WLF explained how Tennessee’s appellate brief fundamentally misread ERISA’s preemption and remedy provisions, which broadly protect employers’ ability to manage their own benefit plans. WLF argued that ERISA’s preemption clause shields ERISA plans from state mandates, like Tennessee’s, which undermine plan integrity. The Sixth Circuit agreed that McKee, as an ERISA fiduciary, has standing to seek pre-enforcement declaratory and injunctive relief. It also has a fiduciary obligation to do so.

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