

## Lawsuit Against Johnson & Johnson For Mismanagement of Drug Prices Likely a Sign of Things To Come For Many Self-Insured Health Plan

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A novel proposed class action lawsuit was filed against Johnson & Johnson (J&J) earlier this month by a current employee for mismanagement of prescription drug prices. The lawsuit alleges, among other things, that J&J violated its fiduciary duties under ERISA by agreeing to pay its pharmacy benefit manager (PBM), Express Scripts, excessively inflated prices primarily from plan assets for certain generic drugs that are widely available elsewhere at a significantly lower cost. (For example, J&J allegedly agreed to have the plan and its beneficiaries pay \$10,239.69 for a generic drug that costs as low as \$40.55 elsewhere even without insurance.) The Plaintiffs allege that by agreeing to pay such exorbitant amounts for these drugs, J&J violated its fiduciary duty of prudence under ERISA.

This lawsuit appears to be the first of its kind, but it undoubtedly will attract the attention of other employees, attorneys, and interested parties who will look for similar discrepancies in self-insured health plan PBM arrangements, including those sponsored by employers and multi-employer health and welfare plans.

If you have any questions about this case or about how you can best protect your company or plan against similar lawsuits, please contact an attorney in the Employee Benefits group of Laner Muchin.

### Attorneys

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### Practice Areas

Employee Benefits and  
Executive Compensation