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John Houston Pope Quoted in "3 Kavanaugh Opinions Benefits Attorneys Need to See"

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John Houston Pope, Member of the Firm in the Employee Benefits & Executive Compensation, Litigation, and Employment, Labor & Workforce Management practices, in the firm's New York office, was quoted in *Law360,* in "3 Kavanaugh Opinions Benefits Attorneys Need to See," by Emily Brill. *(Read the full version – subscription required.)*

Following

Judge Brett Kavanaugh's brand of judicial conservatism, which has drawn comparisons to that of Chief Justice John Roberts, seems to guide how he has decided benefits issues as a member of the D.C. Circuit — following precedent, tossing cases when procedural hiccups arise and hewing closely to statutory language, attorneys say.

Although lawyers say the new U.S. Supreme Court nominee is likelier to rule for employers than employees in general, his commitment to the language of statutes and past precedent of agencies has compelled him to rule for the employee on several notable occasions, such as in Kifafi v. Hilton Hotels Retirement Plan.

"I'm not sure any aspect of political conservatism comes out in [his benefits decisions]," said John Houston Pope, a partner at Epstein Becker Green. "I think it's more judicial conservatism that comes out. He wants to be minimalist in terms of movement of the law."

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If Judge Kavanaugh is confirmed to the high court to replace retiring Justice Anthony Kennedy, benefits attorneys “aren’t really looking at anything different than Kennedy,” Pope said. Based on his track record, Judge Kavanaugh will fall “by and large on the conservative side of issues” and tend to favor businesses over workers, partially because that’s how certain laws are written, Pope said.

“The statutes don’t always give the employees the rights, so if you look at a couple of these cases from Kavanaugh, you have Kavanaugh reversing some employee-favorable rulings from administrative agencies during the Obama administration because the agencies were pushing a more employee-friendly agenda,” Pope said. “He was taking the view that that either wasn’t consistent with the statute or the past rulings of the same agency, and therefore it was unreasonable.”