

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

No. 12-5287

INDIANA STATE DISTRICT COUNCIL OF LABORERS
AND HOD CARRIERS PENSION AND WELFARE
FUND, on behalf of itself and all others similarly situated,
Plaintiff,**FILED**
May 23, 2013
DEBORAH S. HUNT, ClerkCEMENT MASONS LOCAL 526 COMBINED FUNDS;
LABORERS DISTRICT COUNCIL CONSTRUCTION
INDUSTRY PENSION FUND,
Plaintiffs - Appellants,

v.

OMNICARE, INC.; JOEL F. GEMUNDER; DAVID
FROESEL, JR.; CHERYL D. HODGES; EDWARD
L. HUTTON; SANDRA E. LANEY,
Defendants - Appellees.

Before: COLE and GRIFFIN, Circuit Judges; GWIN, District Judge.

JUDGMENTOn Appeal from the United States District Court
for the Eastern District of Kentucky at Covington.

THIS CAUSE was heard on the record from the district court and was argued by counsel.

IN CONSIDERATION WHEREOF, it is ORDERED that the district court's judgment with regard to Plaintiffs' legal compliance claims is REVERSED and REMANDED for further proceedings consistent with the opinion of this court. IT IS FURTHER ORDERED that the judgment with respect to Plaintiffs' GAAP-based claims is AFFIRMED.

ENTERED BY ORDER OF THE COURT

Deborah S. Hunt, Clerk