CLOSED,STAYED

United States District Court
District of Massachusetts (Boston)
CIVIL DOCKET FOR CASE #: 1:21-cv-11605-RGS

Brown v. The MITRE Corporation et al
Assigned to: Judge Richard G. Stearns
Demand: $150,000
Cause: 28:1132 E.R.I.S.A.

Date Filed: 09/29/2021
Date Terminated: 04/28/2022
Jury Demand: None
Nature of Suit: 791 Labor: E.R.I.S.A.
Jurisdiction: Federal Question

04/28/2022	32	Judge Richard G. Stearns: ELECTRONIC ORDER entered granting 24 Motion to Dismiss for Lack of Jurisdiction. By way of his ERISA class action Complaint, plaintiff Aaron Brown sues the MITRE Corporation, its Board of Trustees, and its Investment Advisory Committee for alleged breach of fiduciary to participants in MITRE's retirement plans (Count I) and failure to monitor (Count II). The thrust of the Complaint is that MITRE's plans paid unreasonably high administrative and recordkeeping expenses to the detriment of the participants. According to the plaintiff, MITRE's plans paid these fees through a revenue sharing approach, by handing over "a percentage of the assets in the Plans." Compl. para. 58. Because of the large amount of assets held by the MITRE plans, this resulted in per-participate fees ranging from $60 to upwards of $200 from 2015-2020, *see id*. para. 63, whereas comparable plans of similar size paid under $35 per participant, *see id*. para. 66. In plaintiff's view, "prudent fiduciaries of defined contribution plans negotiate recordkeeping fees as a fixed dollar amount rather than as a percentage of assets. Otherwise, as plan assets grow the recordkeeping compensation increases without any change in the recordkeeping services, leading to unreasonable fees." *Id*. para. 61. Defendants move to dismiss for lack of subject matter jurisdiction. To have Article III standing, a plaintiff must "(1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision." *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016). In the context of representative ERISA claims, the lead plaintiff must himself have a "concrete stake" in the outcome of the lawsuit. *Thole v. U. S. Bank N.A.*, 140 S. Ct. 1615, 1619 (2020). In *Thole*, the Supreme Court held that two plan participants who had had received all their defined-benefit monthly payments had no standing to sue for imprudent investment of the plan funds. Here, defendants contend that Brown similarly lacks standing because he suffered no personal harm. Referring to Brown's account statements, defendants note that based on his account balances and the alleged revenue-sharing fee percentage, Brown paid less than $5.00 annually in administrative and recordkeeping fees in any relevant year, well below the fees held up in the Complaint as being reasonable. Brown counters, and the court agrees, the fact that he paid only a small absolute amount in administrative and recordkeeping fees does not establish that he did not suffer an injury. "The crux of Plaintiff's allegation is that the asset-based fee was too high which affected Plaintiff by making him pay more for RKA than he otherwise should have paid. So even if the asset-based fees were multiplied by assets in Plaintiff's individual account, which they were not, Plaintiff would still have suffered an injury because the asset-based fee (i.e..10% to.039%) was higher than Plaintiff alleges it should have been." Opp'n at 1-2. Nevertheless, defendants ultimately prevail. Defendants point out that Brown had invested only in a single fund in the relevant time period. That fund belonged to the lowest cost class, and critically, paid no revenue-sharing fees (facts not disputed in Brown's opposition). Brown's theory of damages, premised on the revenue sharing model, cannot explain how he was personally injured by MITRE's allegedly unreasonable fee practices. Accordingly, Brown has not established Article III standing to sue individually or on behalf of others. For the foregoing reasons, defendants' motion to dismiss is ALLOWED. (Tang, Danni) (Entered: 04/28/2022)
04/28/2022	33	Judge Richard G. Stearns: ORDER entered. Order of Dismissal. (Pacho, Arnold) (Entered: 04/28/2022)