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California District Court Dismisses Conclusory ERISA "Fee" Complaint Unsupported by Facts

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A California federal court recently granted an employer win in an ERISA excessive fee case when it dismissed a proposed class action brought by an ex-employee of Schenker, Inc., a transportation logistics company. *Partida v. Schenker Inc.*, No. 22-cv-09192-AMO, 2024 U.S. Dist. LEXIS 58297 (N.D. Cal. Mar. 29, 2024). In the past few years, hundreds of employers have been hit with proposed class actions challenging their "excessive" retirement plan fees. Plaintiffs have had mixed results in court. Here, the court reasoned that, although Plaintiff had established standing, the complaint did not state a claim because it contained no specific allegations to support its conclusory assertions.

Similar to other fee class actions, here an ex-employee alleged that Schenker breached its duties of prudence and loyalty under ERISA by: (1) not investigating available lower fee share classes of identical funds; (2) not removing underperforming investments; (3) not evaluating whether an active management strategy benefitted participants; and (4) misrepresenting material information about Plan options and expenses to participants. In response, Schenker moved to dismiss.

Failure to State a Claim

Schenker's motion to dismiss asserted that the complaint did not state a valid claim under ERISA because it rested on conclusory assertions unsupported by detailed factual allegations. For example, Plaintiff conclusorily asserted that the plan paid an excessively high fee for recordkeeping services, that the plan's funds "significantly underperformed" compared to comparable investments, and that Schenker "selected and retained investment options despite the high cost" compared to comparable investments. But Plaintiff (1) did not allege facts showing what services the plan's recordkeeper performed or that the cost of those services was excessive; (2) did not identify cheaper or more successful funds that had the same aims, risks, or potential rewards as the plan's investments; and (3) did not allege facts showing that Schenker engaged in a flawed process to select or retain funds for the plan.

The Court agreed with Schenker, holding that Plaintiff failed to state a claim for imprudence because he did not plead any facts showing how the fiduciaries' process in selecting and monitoring plan investments was flawed, did not plead any facts showing that the plan's recordkeeping fees were

excessive in relation to the services rendered, and did not identify any specific misrepresentations Schenker made. Likewise, the court held that Plaintiff did not state a claim for disloyalty because the complaint “include[d] only conclusory allegations” that the fiduciaries had acted in their own self-interest to the detriment of the plan, without identifying any specific acts or harms. Finally, the court held that Plaintiff did not state a claim for failure to monitor fiduciary conduct because he had not properly alleged any underlying breach of fiduciary duty.

Takeaways

This case serves as another example of a federal court dismissing an ERISA complaint that relies on conclusory assertions unsupported by specific factual allegations. Courts remain willing to dismiss substantively empty complaints early in the litigation, barring speculative plaintiffs from unsubstantiated “fishing expeditions” in discovery.

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