

401(k) LAWSUITS: WHAT ARE THE CAUSES AND CONSEQUENCES?

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Introduction

401(k)s are now the main type of employer-sponsored retirement plan. However, these plans are still relatively new, having started as a supplement to defined benefit plans in the early 1980s. As a result, many questions remain unanswered about the legal obligations of the plan fiduciaries, who are responsible for administering the plans and their assets.

While the law is clear that plans must be administered for the “sole benefit” of participants, it is less specific on many details: for example, how plan fiduciaries should select the type and number of investment options or determine a reasonable level of fees. Indeed, instead of laying out specific regulations or guidance, the Department of Labor’s (DOL) general approach to overseeing 401(k)s has been through its own enforcement actions or through litigation (mostly privately initiated). This *brief* looks at the broad complaints that motivate the litigation and how the threat of litigation may affect the retirement industry.

This *brief* is organized as follows. The first section introduces the three main reasons why litigation is brought in the first place: 1) inappropriate investment options; 2) excessive fees; and 3) self-dealing.

It then explains that, from the courts’ perspective, fiduciaries’ main responsibility is to follow a prudent process in making plan-related decisions. The section also shows how common each type of litigation is and highlights that recent lawsuits have been more focused on excessive fees than past lawsuits, when investments were more of a focus.

The second section turns to the potential effects of this litigation on 401(k) plans. In particular, it points out two major trends that have coincided with the lawsuits: 1) a rise in the use of low-cost index funds, which are perceived as less vulnerable to litigation; and 2) a downward trend in investment and administrative fees. The section also describes one potential negative consequence of litigation – the fear of plan fiduciaries to offer innovative plan options, such as lifetime income products.

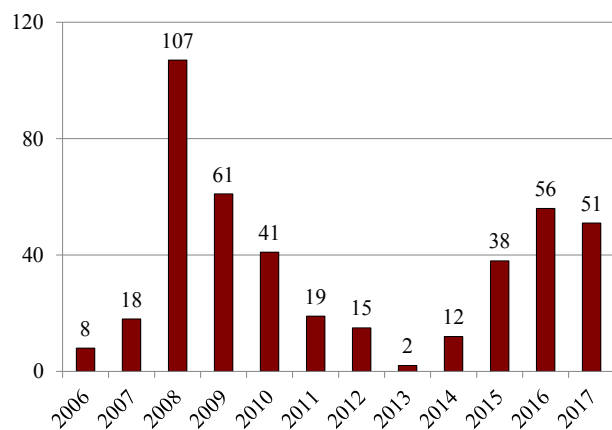
Lay of the Land

The motivation for this *brief* is simple. 401(k) litigation – which had declined after the Great Recession – has surged again recently. According to data from

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Bloomberg's Bureau of National Affairs, over 100 new 401(k) complaints were filed in 2016-2017 – the highest two-year total since 2008-2009 (see Figure 1).¹

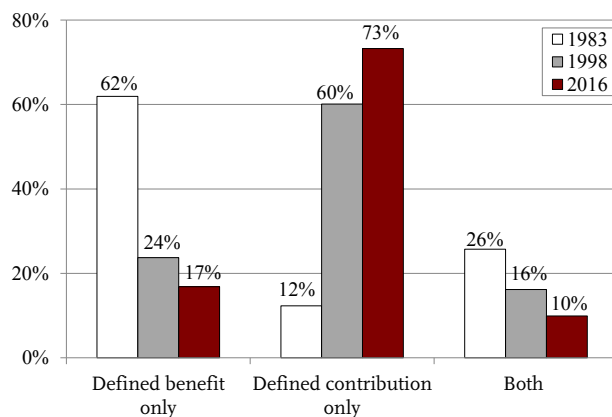
FIGURE 1. NUMBER OF COMPLAINTS RELATED TO 401(K) PLANS, 2006-2017



Source: Bloomberg Bureau of National Affairs, *ERISA Litigation Tracker* (2018).

Understanding the causes of these lawsuits and the potential consequences for plan participants is important, since 401(k)s are now the dominant employer-sponsored retirement plan (see Figure 2). The share of workers with a retirement plan at work covered solely by a 401(k) or other defined contribution plan rose from 12 percent in 1983 to 73 percent

FIGURE 2. WORKERS WITH PLAN COVERAGE BY TYPE OF PLAN, 1983, 1998, AND 2016



Source: Munnell and Chen (2017).

in 2016. And 401(k)s now hold over \$5 trillion in assets, without counting the even larger amount of assets that start in 401(k)s but end up in Individual Retirement Accounts (IRAs).²

The administration of 401(k) plans and their assets is governed by the Employee Retirement Income Security Act of 1974 (ERISA). The DOL is charged with creating regulations, offering guidance, and enforcing this law, and it has historically emphasized enforcement over regulation and guidance. For example, instead of issuing specific guidance on how plan fiduciaries should act – such as providing concrete factors to consider in determining whether fees are reasonable – it has tended to “regulate by enforcement” after the fact. Indeed, such an approach is often used by other government regulators – the Securities and Exchange Commission, for example – because it provides an agency with the flexibility to identify emerging issues as they arise and tailor any response to specific circumstances.³ However, it also means that fiduciaries are often left to guess what practices comply with ERISA and may only become aware of an alleged violation from a DOL investigation or a lawsuit.⁴ In the case of 401(k)s, these lawsuits fall into three major areas: 1) inappropriate investment choices; 2) excessive fees; and 3) self-dealing.

Inappropriate Investment Choices

ERISA does not spell out specifically what type of investment options are appropriate or how to monitor them. Instead, it tells fiduciaries to show “the care, skill, prudence, and diligence ... that a prudent man” would when choosing investments “so as to minimize the risk of large losses.”⁵ This language makes clear that what matters most in choosing investments is the process, rather than the outcome.

Two fiduciaries could choose the same investment option and face different risks of liability if one followed a prudent decision-making and monitoring process – for example, by considering the performance and costs of relevant benchmarks – and the other did not.⁶ So, plan fiduciaries have tended to face this kind of litigation when their funds have experienced persistently poor historical performance compared to similar “benchmark” funds. As an example, in the 2016 *Troudt v. Oracle Corp* complaint, the plaintiff alleged in part that the fiduciary chose to offer the Artisan Small Cap Value Fund even though it had underperformed a small-cap value index fund

over one-, three-, and five-year periods.⁷ That same lawsuit also complained that the plan fiduciary should not have offered relatively new investment options that did not have sufficient performance history nor manager longevity, since no way exists to evaluate their suitability based on past performance.⁸

Another issue arises when fiduciaries include the employer's own stock in its 401(k) plan and that stock performs badly.⁹ For example, in August 2017, a complaint was filed against the fiduciaries of the Sears 401(k) plan alleging that the employer's own poor-performing company stock should not have been included.¹⁰ Indeed, the majority of the lawsuits filed during and immediately after the Great Recession pertained to employer stock. However, this kind of lawsuit has become less common since a Supreme Court ruling in the case of *Dudenhoeffer v. Fifth Third Bancorp* in 2014.¹¹ That ruling indicated that, absent "special circumstances," plan fiduciaries will not be held liable for failure to predict the future performance of the employer's stock, nor is a fiduciary required to act on any inside information that would place it at odds with securities law.¹² This ruling sets a tough standard for plaintiffs to succeed in claims related to employer stock performance.

Excessive Fees

Litigation often involves an allegation of excessive investment and/or administrative fees – sometimes in combination with the other types of allegations described in this *brief*. Similar to the issues regarding inappropriate investment options, ERISA requires that fiduciaries follow a careful, prudent process to ensure that plans pay no more than reasonable fees for necessary services.

Investment Fees. Investment fees are typically expressed as "expense ratios," the share of assets charged for managing the fund (e.g., if the fee is \$1 of every \$100, the expense ratio is 1 percent). Courts have consistently maintained that it is not always necessary for all investment choices to have lower expense ratios than similar benchmark funds.¹³ But in choosing which funds will be offered, fiduciaries must select funds that charge no more than a reasonable fee, and the fiduciaries must periodically assess whether such fees continue to be reasonable in light of alternatives. In doing so, fiduciaries are not expected to benchmark the fees of actively-managed funds

(which try to beat the market) against those of passive funds (which generally have lower fees but aim to simply match market returns).¹⁴ Instead, fiduciaries should compare a fund's fees to other funds with similar risk/return and asset class characteristics.

In addition, the fiduciary must take steps to ensure it is offering the lowest-cost version, or "share class," of a specific fund available to the plan. Most mutual funds have multiple fund share classes, each with identical underlying investments, which offer different fees and services for different types of investors. One way fiduciaries can run afoul of the share-class requirement is to select higher-priced retail share classes instead of lower-cost institutional share classes, which are often offered to retirement plans at a discount due to the larger volume.¹⁵ Offering a higher cost share class than is available could happen

if a fiduciary does not do their due diligence and is thus unaware of lower cost options or if they are sold a plan by a broker that did not fully minimize their costs.

Court rulings often hinge on whether fiduciaries follow a "prudent" process.

Administrative Fees. In addition to investment fees, participants are charged fees for support services, including account recordkeeping, government filings, and participant communication and education. These administrative fees may differ from plan to plan, depending on both the extent of services requested by the plan fiduciaries and the complexity and size of the plan.

The most common claim involving administrative fees is that they are excessive. Though courts generally defer to fiduciaries about whether a fee is reasonable, fiduciaries are required to take prudent steps to assess the fees and to determine whether the services are necessary.¹⁶ For example, in finding for the plaintiff, a court ruled that ABB (a robotics and heavy equipment maker) both failed to leverage the plan's size to negotiate lower administrative costs and allowed the plan's recordkeeping fees to subsidize the cost of non-plan corporate services.¹⁷

Practically, litigation related to administrative fees often runs into industry fee transparency. Unlike the area of 401(k) investment choices, for which long-established, peer-group comparisons are available, less information has been available on which administrative services are offered to peers and at what cost. This situation is slowly changing, at least partially due to a 2012 DOL regulation that explicitly requires service providers to disclose all of their fees to plan

fiduciaries.¹⁸ Further, several consulting services now offer independent plan administration fee evaluations.

A final issue worth noting is the recent trend of excessive fee claims brought against 401(k) record-keepers (i.e., the third-party that manages the plan). For example, Voya Financial Inc. was recently sued by a participant in Nestlé's 401(k) plan for charging excessive fees associated with a financial planning tool. However, that case and others like it have been dismissed, not because the fees were found to be reasonable, but because the court concluded that Voya was not a fiduciary.¹⁹ This case highlights a broader point: in general, the legal responsibility of acting in the participants' best interest falls on plan fiduciaries; in this regard, ERISA generally does not expressly bind service providers.²⁰

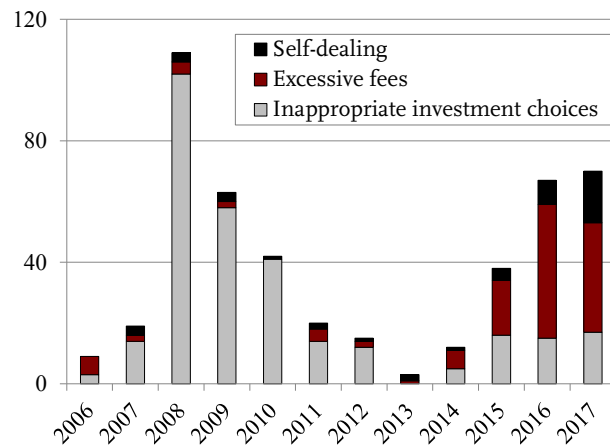
Self-Dealing

In the ERISA context, the term "self-dealing" most often refers to a case in which a plan fiduciary acts *in its own best interest* rather than serving the plan and its participants. A typical allegation is that a fiduciary failed to act "for the exclusive purpose of (i) providing benefits to participants and their beneficiaries; and (ii) defraying reasonable expenses."²¹ Employers that sponsor ERISA plans can also be held liable for permitting the assets in a benefit plan to "inure to the benefit of the employer."²²

The 401(k) plans sponsored by over 40 financial firms – including most of the largest companies in this sector – have been associated with lawsuits alleging self-dealing. In most cases, the allegations are that fiduciaries chose to offer the employer's own investment funds that had poor performance potential, excessive fees, or both.²³ And, in some cases, firms added their newest funds before these options had established any suitable and credible performance history. While many of these lawsuits are ongoing – for example, against Morgan Stanley, Charles Schwab, and JP Morgan – other defendants like Principal Life have settled (without admission of liability), while still others like Putnam have won legal victories in the lower courts.²⁴

Figure 3 summarizes how frequently the three major causes of litigation show up as the basis for a lawsuit, using the same data as Figure 1.²⁵ The lawsuits in the wake of the Great Recession tended to focus on inappropriate investments and, as mentioned above, often accused employers of imprudently

FIGURE 3. NUMBER OF COMPLAINTS RELATED TO 401(K) PLANS BY TYPE OF COMPLAINT, 2006-2017



Note: The number of complaints is higher here than in Figure 1 because many cases have multiple bases for claims. Source: Bloomberg Bureau of National Affairs, *ERISA Litigation Tracker* (2018).

including their own stock in 401(k)s. As company stock has declined in importance and in the wake of the Supreme Court decision in *Fifth Third Bancorp v. Dudenhoeffer* described above, these lawsuits have become less common. More recent lawsuits have tended to focus instead on excessive fees, although self-dealing lawsuits have also become more common.²⁶

Consequences of Litigation for Retirement Plans

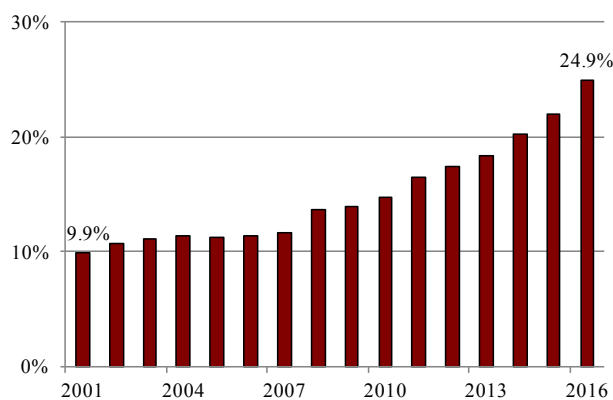
The resurgence of litigation makes it clear that plan fiduciaries could find it beneficial to take action to avoid litigation, and indeed some already have. This section describes some of these actions.

Greater Use of Passive Options

Both retail and institutional investors have been broadly transitioning from active to passive mutual fund options. Although the discussion above suggests that the higher fees associated with actively-managed funds are not necessarily imprudent, fiduciaries may believe it is beneficial to avoid the risk altogether.²⁷ Passive investments – assuming they are reasonably managed and priced – do not pose a risk

of significantly underperforming other index funds on performance and fee benchmarks. Figure 4 shows how the share of money invested in mutual funds (including both retirement and non-retirement assets) has shifted towards index funds over the last 15 years, with a more rapid increase in recent years.

FIGURE 4. PERCENTAGE OF EQUITY MUTUAL FUND ASSETS IN INDEX FUNDS, 2001-2016



Source: Investment Company Institute (2017b).

Whether this trend towards more passively-managed investments is good or bad for plan participants remains to be seen. The key performance metric is after-fee returns. Recently, index funds have performed well on this score, although the recent strength of the market and its lower volatility have likely been major contributors. But some industry participants and observers view the resulting bias against active management options in 401(k)s as a negative trend that rewards “safe” funds over those that could add greater value.²⁸

Reduction of Asset Class Coverage

Before the increases in 401(k) plan litigation, some fiduciaries offered more asset class choice by including specialty assets, such as industry-specific equity funds, commodities-based funds, and narrow-niche fixed income funds. These options could potentially enhance expected returns in well-managed and monitored portfolios. But some plans that offer these products have been criticized on the grounds that their participants were insufficiently aware of the potential for higher fees, investment risks, and misuse.²⁹ Liti-

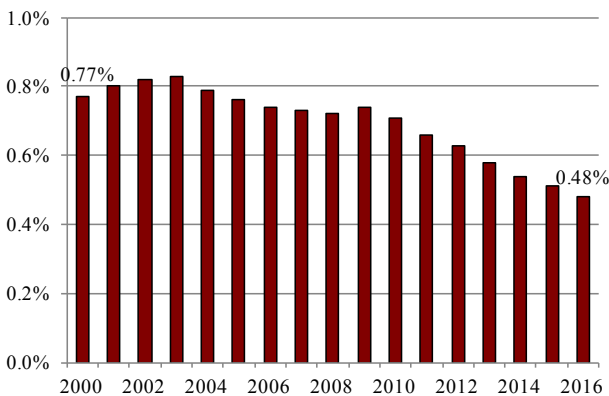
gation concerns may dampen fiduciaries’ appetite to add narrowly-focused investments to their menus.³⁰ Given the lack of knowledge that most participants have about investing, the gains from not offering such funds in terms of lower fees would likely offset the losses from restricting these options. In any case, some industry observers expect litigation related to specialty assets to become more common.³¹

Increased Fee Transparency

Over the past decade, the greater scrutiny by plaintiff attorneys in 401(k) litigation, combined with the DOL’s 2012 regulation requiring service providers to disclose their fees to plan fiduciaries (described above) have led to increasing fee transparency. Some plan fiduciaries who have allegedly failed to clearly disclose fees to participants have been challenged. This fact has prompted other fiduciaries to demand better disclosure from service providers. Overall, the result is increased visibility of all plan fees, both those paid by the participant and the plan sponsor.

One clear benefit of the increased transparency is lower fees. On the investment side, the average share of assets paid to fees for 401(k) participants in mutual funds has declined over the last 15 years (see Figure 5). Notably, these declines have been accompanied by corresponding decreases in 401(k) administrative and recordkeeping costs. For example, New England Pension Consultant’s annual survey of defined contribution plans shows that, between 2006 and 2016, the

FIGURE 5. AVERAGE MUTUAL FUND INVESTMENT FEES AS A PERCENTAGE OF MUTUAL FUND ASSETS FOR 401(K) PARTICIPANTS, 2000-2016



Source: Collins and Duvall (2016).

average asset-weighted expense ratio for recordkeeping services declined from 0.57 percent to 0.46 percent.³² Thus, it appears that fees have declined across the board, so plan participants are receiving a higher proportion of the total returns on their investments.

Lack of Innovation

One open question is whether the fear of litigation prevents the use of creative options that may improve participant outcomes – like investment vehicles designed to provide a lifetime income stream when participants retire. So far, these options have not caught on and it is unclear what role litigation has played. After all, offering an annuity option would involve more complexity than passive investments (and thus higher fees) and would require the plan to choose a provider, which itself entails some risk. Yet, such options would likely improve retirement security. To the extent the fear of litigation does play a role, retirees may benefit from more government clarification on how plans can offer drawdown products in ways that protect them from any legal consequences.

Conclusion

Lawsuits have been brought against 401(k) fiduciaries for a variety of reasons, with the recent rise in litigation especially focused on fees. Often times, the finding for or against a plan's fiduciaries has not so much hinged on results – were investment returns too low or fees too high – but whether any decisions were arrived at following a prudent process and with participants' interests at heart. In any case, these lawsuits have been accompanied by an increase in the use of passive investment options and a fall in investment and administrative fees and it does not seem unreasonable to assume that the threat of litigation plays a role. To the extent litigation also prevents 401(k)s from offering potentially useful innovations, such as lifetime income options, policymakers may want to consider ways to encourage them.

Endnotes

1 For a full list of cases, see Appendix Table A1. Figure 1 includes all cases for which the “Basis of Claim” was listed by the Bloomberg Bureau of National Affairs (BNA) *ERISA Litigation Tracker* as: “employer stock investment losses,” “excessive or unreasonable 401(k) plan fees,” “proprietary mutual fund(s) investments,” “selection and monitoring of investment advisers/managers,” and/or “subprime mortgage-related investment losses.” The figure excludes cases where the snapshot of the lawsuit included the term “ESOP” but not the term 401(k) or when the case name or snapshot included the word “Pension Fund.” Therefore, the cases included in Figure 1 likely relate to 401(k) plans. The cases included in Figure 1 begin in 2006 because that is when the BNA database began tracking lawsuits.

2 Investment Company Institute (2017a). IRAs are not part of this *brief* because many regulations that affect trends in 401(k)-related litigation do not apply to IRAs.

3 For an excellent discussion of regulation by enforcement in the context of securities litigation, see Pitt and Shapiro (1990).

4 DOL investigations are not the subject of this *brief*, but generally occur for the same reasons as litigation. Determining how frequently they occur is somewhat more difficult than in the case of litigation, for which substantial documentation exists.

5 ERISA § 404(a)(1).

6 This point is illustrated in a 2014 opinion (*Tussey v. ABB*), which suggested that an earlier court’s decision had been incorrectly based on the subsequent returns of two investments and not on the process the fiduciaries followed to choose between them.

7 See the complaint in *Troudt v. Oracle Corp.* (2016).

8 In another part of the *Troudt* complaint, the plaintiff alleged that the plan fiduciaries chose to offer the PIMCO Inflation Responsive Multi-Asset Fund even though it only had 18 months of performance history at the time it was selected.

9 One might logically ask why it is prudent to offer employer stock as an investment in a retirement plan under any circumstances. However, numerous provisions in the law expressly permit retirement plans to invest in employer stock. See, e.g., Internal Revenue Code § 401(a)(1) (stock bonus plans), ERISA § 408(e) (acquisition by plan of employer securities).

10 See the complaint in *Meriwether v. Sears Holding Corp.*

11 *Dudenhoeffer* involved an employee stock ownership plan, and its key holding (that fiduciaries of such plans are not entitled to a “presumption of prudence” when selecting an employer’s stock for the plan) is limited to such plans. However, other principles set forth in *Dudenhoeffer*, particularly concerning the fiduciary standard of prudence, apply with equal force to 401(k) plans more generally, including those without employer stock funds.

12 For a detailed discussion of this ruling and its consequences, see Rosen (2016).

13 For example, see the ruling in *Brotherston v. Putnam Investments* (2017). This case is still under appeal in the 1st Circuit Court.

14 As the district court in *Brotherston* put it, to benchmark the fees of Putnam’s active funds against those of Vanguard’s passive index funds would be like “comparing apples and oranges.” This case is on appeal before the First Circuit Court of Appeals. See *Brotherston v. Putnam Investments* (2017).

15 For example, in *Feinberg v. T. Rowe Price Group Inc.*, T. Rowe Price was accused of offering retail share class versions of its own mutual funds (this litigation is still ongoing). Plans have also gotten into trouble for offering an institutional class mutual fund when an even lower cost non-mutual-fund variant could have been selected. See *Tibble v. Edison International* (a case decided by the Supreme Court), which found for the plaintiff because Edison used higher-priced share class funds when lower-priced share classes were available.

16 Examples of lawsuits in this vein include suits against “mega” 401(k) plans including those of Verizon (with assets of \$30 billion), Chevron (\$19 billion), Intel (\$15 billion), Oracle (\$11 billion), and American Airlines (\$9 billion). Even smaller plans can be targeted, for example in lawsuits against CheckSmart (\$25 million) and LaMettry’s Collision (\$9 million).

17 See the ruling in *Tussey v. ABB, Inc.* Following the initial ruling in 2012, the case has continued due to a reconsideration of some damages and because some of the original findings on investment-related decisions were reversed. For a discussion, see Wagner (2015).

18 For a discussion, see U.S. Department of Labor, Employee Benefits Security Administration (2012a). Fiduciaries are already responsible for disclosing such fees to participants and to DOL.

19 See *Patrico v. Voya Financial, Inc.*

20 For an exception, see *Harris Trust & Savings Bank v. Salomon Smith Barney Inc.*

21 ERISA § 404(a)(1)(A).

22 ERISA § 403(c)(1).

23 For three examples of these kinds of actions, see: 1) *Schultz v. Edward D. Jones & Co. LP*; 2) *Beach v. J.P. Morgan Chase Bank*; and 3) *Severson v. Charles Schwab Corporation*.

24 For a discussion of the legal victory by Putnam, see Iacurci (2017). For the *Putnam* decision, see *Brotherston v. Putnam Investments, LLC*. Note that the lower court’s holdings in *Putnam* have been appealed.

25 Complaints are labeled as related to “self-dealing” if one of the bases for the claim was “proprietary mutual fund(s) investments.” Complaints are labeled as “excessive fees” if one of the bases for the claim was “excessive or unreasonable 401(k) plan fees.” Complaints are labeled as “inappropriate investment choices” if one of the bases for the claim was: “employer stock investment losses,” “selection and monitoring of investment advisers/managers,” and/or “subprime mortgage-related investment losses.”

26 Fewer plans are offering company stock and,

among those that do, participants are holding less of their assets in this investment. For more details, see Utkus and Young (2017).

27 See Steyer (2017) for a discussion of this trend and its relationship to litigation.

28 For example, see McCann (2016).

29 For example, Intel Corp. was sued in 2015 for alleged inappropriate use of private equity, commodity, and hedge funds in its 401(k) plan, although it ultimately won this case in 2017 on procedural grounds. See *Sulyma. v. Intel Corp. Investment Policy Committee*.

30 For example, Investment Company Institute (ICI) (2017b) notes that, in 2016, plan sponsors eliminated some commodity and international funds from their lineups. It is worth noting that ICI does not discuss why this decline occurred and whether or not it was caused by litigation.

31 For example, see Moore (2016a).

32 For discussion, see Moore (2016b).

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APPENDIX

TABLE A1. ERISA CASES ON INAPPROPRIATE INVESTMENTS, EXCESSIVE FEES, AND/OR SELF-DEALING IN RETIREMENT ACCOUNTS, 2006-2018 (AS OF JANUARY 26, 2018)

Case name	Court	Complaint filed	Listed basis or bases of claim			Status
			Inappropriate Investments	Excessive fees	Self-dealing	
<i>Abbott v. Lockheed Martin Corp.</i>	S.D. Ill.	09/16/2006		✓		Pending
<i>Adams v. Bank of America Corp.</i>	S.D.N.Y.	02/02/2009	✓			Pending
<i>Alas v. AT&T Inc.</i>	C.D. Cal.	11/06/2017		✓		Pending
<i>Alderfer v. Clemens Markets Inc. Retirement Savings and Profit Sharing Plan 003</i>	E.D. Pa.	09/01/2010	✓			Settled
<i>Alford v. United Community Banks Inc.</i>	N.D. Ga.	08/05/2011	✓			Pending
<i>Alford v. Wellpoint Inc.</i>	S.D. Ind.	05/12/2008	✓			Pending
<i>Allen v. Bank of Am. Corp.</i>	S.D.N.Y.	06/03/2015	✓			Pending
<i>Allen v. M&T Bank Corp.</i>	W.D.N.Y.	09/01/2016		✓	✓	Pending
<i>Alvarez v. Bank of America Corp.</i>	S.D.N.Y.	03/16/2009	✓			Pending
<i>Anderson v. Merck & Co.</i>	D.N.J.	05/28/2008	✓			Pending
<i>Anderson v. Principal Life Ins. Co.</i>	S.D. Iowa	04/17/2015		✓		Settled
<i>Andrus v. N.Y. Life Ins. Co.</i>	S.D.N.Y.	07/18/2016		✓		Pending
<i>Apogee Enterprises Inc. v. State Street Bank and Trust Co.</i>	S.D.N.Y.	03/02/2009	✓			Dismissed
<i>Arshadullah v. BP P.L.C.</i>	S.D. Tex.	06/29/2010	✓			Pending
<i>Atiram v. Phillips 66 Co.</i>	S.D. Tex.	12/11/2017	✓			Pending
<i>Austin v. Union Bond & Trust Co.</i>	D. Or.	04/29/2014		✓		Pending
<i>Baird v. BlackRock Institutional Tr. Co.</i>	N.D. Cal.	04/05/2017		✓	✓	Pending
<i>Banks v. Healthways Inc.</i>	M.D. Tenn.	07/31/2008	✓			Dismissed
<i>Barrett v. Pioneer Nat. Resources USA, Inc.</i>	D. Colo.	06/28/2017		✓		Pending
<i>Barton v. Total Petrochemicals USA, Inc.</i>	E.D. Tex.	12/04/2015	✓			Pending
<i>Beach v. JPMorgan Chase Bank</i>	S.D.N.Y.	01/25/2017		✓	✓	Pending
<i>Beesley v. International Paper Co.</i>	S.D. Ill.	09/11/2006	✓	✓		Settled
<i>Bekker v. Neuberger Berman Grp. LLC</i>	S.D.N.Y.	08/02/2016		✓	✓	Pending
<i>Bell v. Anthem, Inc. Pension Comm. of ATH Holding Co. LLC</i>	S.D. Ind.	12/29/2015		✓		Pending
<i>Benitez v. Humana Inc.</i>	W.D. Ky.	04/22/2008	✓			Dismissed
<i>Bentley v. Morgan Keegan & Co.</i>	W.D. Tenn.	02/17/2009			✓	Pending
<i>Bilewicz v. FMR LLC</i>	D. Mass.	03/19/2013		✓	✓	Settled
<i>Bishop-Bristol v. Mass. Mutual Life Ins. Co.</i>	D. Mass.	01/29/2016		✓		Pending
<i>Blackstock v. Kaufmann</i>	W.D. Mo.	01/13/2010	✓			Dismissed
<i>Bodnar v. KV Pharmaceutical Co.</i>	E.D. Mo.	02/09/2009	✓			Dismissed
<i>Bolger v. Perez</i>	W.D.N.Y.	02/06/2012	✓			Pending
<i>Bonanomi v. PFF Bancorp Inc.</i>	C.D. Cal.	09/17/2008	✓			Dismissed
<i>Borboa v. Chandler</i>	E.D. Va.	06/09/2011	✓			Dismissed
<i>Boston v. SLM Corp.</i>	S.D.N.Y.	05/16/2008	✓			Pending
<i>Braden v. Wal-Mart Stores Inc.</i>	W.D. Mo.	03/27/2008		✓		Settled
<i>Bredthauer v. Lundstrom</i>	D. Neb.	07/07/2010	✓			Settled

Case name	Court	Complaint filed	Listed basis or bases of claim			Status
			Inappropriate Investments	Excessive fees	Self-dealing	
<i>Brotherston v. Putnam Inv. LLC</i>	D. Mass.	11/13/2015			✓	Pending
<i>Brown v. Medtronic Inc.</i>	D. Minn.	08/11/2008	✓			Decided
<i>Brown v. SunTrust Banks Inc.</i>	D.D.C.	06/27/2014			✓	Dismissed
<i>Brown v. Wachovia Corp.</i>	W.D.N.C.	09/09/2008	✓			Pending
<i>Burgess v. HP Inc.</i>	N.D. Cal.	08/18/2016	✓	✓		Pending
<i>Burio-Pilch v. Colonial Bancgroup Inc. Benefits Administration and Investment Committee</i>	M.D. Ala.	09/04/2009	✓			Pending
<i>Bush v. Arch Coal, Inc.</i>	E.D. Mo.	06/30/2015	✓			Pending
<i>Bushansky v. Washington Mutual Inc.</i>	W.D. Wash.	11/20/2007	✓			Settled
<i>Butler National Corp. v. Union Central Life Insurance Co.</i>	S.D. Ohio	03/01/2012		✓		Settled
<i>Buzzo v. Lehman Brothers Holdings Inc.</i>	S.D.N.Y.	07/10/2008	✓			Pending
<i>Calibuso v. Bank of America Corp.</i>	S.D.N.Y.	03/23/2009	✓			Pending
<i>Cambra v. YRC Worldwide Inc.</i>	D. Kan.	12/07/2009	✓			Settled
<i>Cancel v. Pfizer Inc.</i>	D.P.R.	01/25/2012	✓			Dismissed
<i>Carr v. International Game Technology</i>	D. Nev.	10/02/2009	✓			Settled
<i>Carver v. Bank of New York Mellon</i>	S.D.N.Y.	12/19/2012	✓			Pending
<i>Cash v. Constellation Energy Group Inc.</i>	D. Md.	12/02/2008	✓			Dismissed
<i>Cassell v. Vanderbilt Univ.</i>	M.D. Tenn.	08/10/2016		✓		Pending
<i>Catalfamo v. Sears Holding Corp.</i>	N.D. Ill.	07/14/2017	✓			Pending
<i>Cates v. Trs. of Columbia Univ.</i>	S.D.N.Y.	08/17/2016		✓		Pending
<i>Cedarleaf v. Huntington Bancshares Inc.</i>	S.D. Ohio	02/25/2008	✓			Dismissed
<i>Chendes v. Xerox HR Solutions LLC</i>	E.D. Mich.	11/09/2016		✓		Pending
<i>Chiecko v. Morgan Stanley & Co.</i>	S.D.N.Y.	02/06/2008	✓			Pending
<i>Chrzanowski v. Constellation Energy Group Inc.</i>	D. Md.	10/21/2008	✓			Dismissed
<i>Cimato v. Merck & Co.</i>	D.N.J.	06/20/2008	✓			Pending
<i>Clark v. Duke Univ.</i>	M.D.N.C.	08/10/2016		✓		Pending
<i>Cobb v. Merck & Co.</i>	D.N.J.	04/22/2008	✓			Settled
<i>Cobb v. Regions Bank</i>	W.D. Tenn.	08/12/2009	✓			Pending
<i>Coburn v. Evercore Trust Co.</i>	D.D.C.	01/13/2015	✓			On appeal
<i>Coletta v. Perez</i>	W.D.N.Y.	02/09/2012	✓			Pending
<i>Cominsky v. Wachovia Corp.</i>	W.D.N.C.	07/01/2008	✓			Pending
<i>Coombs v. Constellation Energy Group Inc.</i>	D. Md.	10/24/2008	✓			Dismissed
<i>Cooper v. DST Sys., Inc.</i>	S.D.N.Y.	03/14/2016	✓	✓		Pending
<i>Coppess v. Healthways Inc.</i>	M.D. Tenn.	02/01/2010	✓			Settled
<i>Corbin v. Amedisys Inc.</i>	M.D. La.	09/27/2010	✓			Pending
<i>Cordello v. ML Manager LLC</i>	D. Ariz.	08/30/2010	✓			Pending

Case name	Court	Complaint filed	Listed basis or bases of claim			Status
			Inappropriate Investments	Excessive fees	Self-dealing	
<i>Cordero v. SLM Corp.</i>	S.D.N.Y.	08/15/2008	✓			Pending
<i>Couch v. YRC Worldwide Inc.</i>	D. Kan.	01/15/2010	✓			Settled
<i>Coulter v. Morgan Stanley</i>	S.D.N.Y.	12/28/2007	✓			Pending
<i>Creamer v. Starwood Hotels & Resorts Worldwide, Inc.</i>	C.D. Cal.	12/16/2016		✓		Pending
<i>Crocker v. KV Pharmaceutical</i>	E.D. Mo.	02/03/2009	✓			Settled
<i>Cryer v. Franklin Resources, Inc.</i>	N.D. Cal.	07/28/2016		✓	✓	Pending
<i>Cummings v. Sandridge Energy Inc.</i>	W.D. Okla.	08/19/2015	✓			Pending
<i>Cunningham v. Cornell Univ.</i>	S.D.N.Y.	08/17/2016		✓		Pending
<i>Curtis v. Merrill Lynch Pierce Fenner & Smith</i>	M.D.N.C.	09/28/2009			✓	Dismissed
<i>Dagres v. Level 3 Communications Inc.</i>	D. Colo.	04/24/2009	✓			Dismissed
<i>Dalton v. Old Second Bancorp Inc.</i>	N.D. Ill.	02/17/2011	✓			Settled
<i>Damberg v. LaMettry's Collision, Inc.</i>	D. Minn.	05/18/2016		✓		Pending
<i>Daniels v. Morgan Asset Management Inc.</i>	W.D. Tenn.	07/12/2010	✓		✓	Pending
<i>Dann v. Lincoln National Corp.</i>	E.D. Pa.	12/10/2008	✓			Dismissed
<i>Danza v. FMR LLC</i>	D.N.J.	05/19/2011		✓		Pending
<i>Daugherty v. Univ. of Chicago</i>	N.D. Ill.	05/18/2017		✓		Pending
<i>David v. Alphin</i>	W.D.N.C.	01/11/2007			✓	Decided
<i>Davis v. Wash. Univ. in St. Louis</i>	E.D. Mo.	06/08/2017		✓		Pending
<i>DeGroot v. Constellation Energy Group Inc.</i>	D. Md.	12/04/2008	✓			Decided
<i>DeJesu v. Hartford Financial Services Group Inc.</i>	D. Conn.	12/09/2008	✓			Dismissed
<i>Dennard v. AEGON USA LLC</i>	C.D. Cal.	02/06/2015		✓		Pending
<i>DeSalvo v. Hartford Financial Services Group Inc.</i>	D. Conn.	12/01/2008	✓			Dismissed
<i>DeSousa v. Lehman Brothers Holdings Inc.</i>	S.D.N.Y.	07/25/2008	✓			Pending
<i>Deter v. Sterling Financial Corp.</i>	E.D. Wash.	01/11/2010	✓			Dismissed
<i>Dezelan v. Voya Retirement Ins. & Annuity Co.</i>	D. Conn.	07/26/2016		✓	✓	Pending
<i>Diggs v. ING Groep N.V.</i>	N.D. Ga.	04/24/2009	✓			Dismissed
<i>DiLorenzo v. American Express</i>	S.D.N.Y.	02/10/2009	✓			Dismissed
<i>Disselkamp v. Norton Healthcare, Inc.</i>	W.D. Ky.	01/22/2018		✓		Pending
<i>Divane v. Nw. Univ.</i>	N.D. Ill.	08/17/2016		✓		Pending
<i>Dobson v. Hartford Financial Services Group</i>	D. Conn.	11/25/2008	✓			Dismissed
<i>Dodd v. L-3 Comm. Corp.</i>	S.D.N.Y.	06/24/2016	✓			Pending
<i>Doe v. Columbia University</i>	S.D.N.Y.	08/16/2016		✓		Pending
<i>Dormani v. Target Corp.</i>	D. Minn.	08/30/2017	✓			Pending
<i>Dougan v. Popular Inc.</i>	D.P.R.	07/17/2009	✓			Settled

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			Inappropriate Investments	Excessive fees	Self-dealing	
<i>Dresslar v. Wellpoint Inc.</i>	S.D. Ind.	05/22/2008	✓			Dismissed
<i>DuCharme v. DST Sys., Inc.</i>	W.D. Mo.	01/13/2017	✓	✓		Pending
<i>Duck v. Honda Manufacturing of Alabama LLC</i>	N.D. Ala.	12/10/2008		✓		Dismissed
<i>Dudenhoeffer v. Fifth Third Bancorp</i>	S.D. Ohio	08/12/2008	✓			Pending
<i>Dull v. SunEdison, Inc. Investment Committee</i>	E.D. Mo.	02/09/2016	✓			Pending
<i>Ehrbar v. Citigroup Inc.</i>	S.D.N.Y.	11/04/2011	✓			Pending
<i>Eley v. Gen. Cable Corp.</i>	E.D. Ky.	03/15/2017	✓			Pending
<i>Ellis v. Fidelity Mgmt. Trust Co.</i>	D. Mass.	12/11/2015		✓		Pending
<i>Feinberg v. T. Rowe Price Grp., Inc.</i>	D. Md.	02/14/2017		✓	✓	Pending
<i>Felton v. Textron Inc.</i>	D.R.I.	09/09/2009	✓			Pending
<i>Fentress v. Exxon Mobil Corp.</i>	S.D. Tex.	11/23/2016	✓			Pending
<i>Ferguson v. Ruane Cunniff & Goldfarb Inc.</i>	S.D.N.Y.	09/01/2017	✓			Pending
<i>Fernandez v. Franklin Resources, Inc.</i>	N.D. Cal.	11/02/2017		✓	✓	Pending
<i>Fernandez v. Merrill Lynch, Pierce, Fenner & Smith Inc.</i>	S.D. Fla.	07/27/2015		✓		Pending
<i>Figas v. Wells Fargo & Co.</i>	D. Minn.	07/08/2008			✓	Settled
<i>Fisch v. SunTrust Banks Inc.</i>	N.D. Ga.	07/11/2008	✓			On appeal
<i>Fleming v. Fidelity Mgmt. Tr. Co.</i>	D. Mass.	05/20/2016		✓		Pending
<i>Fletcher v. Wells Fargo & Co.</i>	D. Minn.	10/14/2016	✓			Pending
<i>Fong v. Lehman Brothers Holdings Inc.</i>	S.D.N.Y.	07/11/2008	✓			Pending
<i>Forte v. U.S. Pension Comm.</i>	S.D.N.Y.	06/24/2015	✓			Pending
<i>Forte v. U.S. Pension Comm.</i>	D.N.J.	05/15/2015	✓			Closed
<i>Fragale v. Level 3 Communications Inc.</i>	D. Colo.	05/05/2009	✓			Dismissed
<i>Franklin v. YRC Worldwide Inc.</i>	D. Kan.	04/21/2010	✓			Settled
<i>Freeman v. Health Management Associates Inc.</i>	M.D. Fla.	10/18/2007	✓			Dismissed
<i>Fuller v. SunTrust Banks Inc.</i>	N.D. Ga.	03/11/2011			✓	On appeal
<i>Gardner v. Flagstar Bancorp Inc.</i>	E.D. Mich.	03/03/2010	✓			Dismissed
<i>Gearren v. McGraw-Hill Cos.</i>	S.D.N.Y.	09/10/2008	✓			Decided
<i>George v. Kraft Foods Global Inc.</i>	N.D. Ill.	07/02/2008		✓		Settled
<i>Gerhart v. RadioShack Corp.</i>	N.D. Tex.	12/17/2014	✓			Pending
<i>Gernandt v. SandRidge Energy, Inc.</i>	W.D. Okla.	07/30/2015	✓			Pending
<i>Geroulo v. Citigroup Inc.</i>	S.D.N.Y.	10/28/2011	✓			Pending
<i>Giantonio v. Chi. Bridge & Iron Co.</i>	S.D.N.Y.	06/06/2017	✓			Pending
<i>Gilliam v. Bank of America Corp.</i>	S.D.N.Y.	02/20/2009	✓			Pending
<i>Giroux v. First American Corp.</i>	C.D. Cal.	01/31/2008	✓			Dismissed
<i>Goetz v. Voya Fin., Inc.</i>	D. Del.	09/08/2017		✓		Pending

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			Inappropriate Investments	Excessive fees	Self-dealing	
<i>Golden Star Inc. v. Mass Mutual Life Insurance Co.</i>	D. Mass.	10/19/2011		✓		Pending
<i>Goldenberg v. Indel Inc.</i>	D.N.J.	10/09/2009		✓		Pending
<i>Goldstein v. Citigroup Inc.</i>	S.D.N.Y.	12/09/2011	✓			Pending
<i>Gordan v. Mass Mutual Life Ins. Co.</i>	D. Mass.	11/05/2013			✓	Pending
<i>Grabek v. Northrop Grumman Corp.</i>	C.D. Cal.	09/28/2006		✓		Pending
<i>Gray v. Computer Sciences Corp.</i>	C.D. Cal.	04/11/2008	✓			Dismissed
<i>Greenberg v. Bear Stearns Cos.</i>	S.D.N.Y.	04/03/2008	✓			Dismissed
<i>Griffin v. Flagstar Bancorp Inc.</i>	E.D. Mich.	02/11/2010	✓			Settled
<i>Grossman v. Motorola Inc.</i>	N.D. Ill.	02/10/2010	✓			Dismissed
<i>Gum v. GlaxoSmithKline plc</i>	S.D.N.Y.	08/27/2010	✓			Decided
<i>Gwyer v. Federal National Mortgage Ass'n</i>	S.D.N.Y.	11/25/2008	✓			Pending
<i>Habib v. M&T Bank Corp.</i>	W.D.N.Y.	05/11/2016		✓		Pending
<i>Halub v. Wellpoint Inc. Pension Committee</i>	S.D. Ind.	05/29/2008	✓			Dismissed
<i>Hamby v. Morgan Asset Management Inc.</i>	W.D. Tenn.	03/31/2008	✓			Pending
<i>Hammond v. Sterling Financial Corp.</i>	E.D. Wash.	01/22/2010	✓			Pending
<i>Hanks v. Amgen Inc.</i>	C.D. Cal.	06/03/2009	✓			On appeal
<i>Hanna v. YRC Worldwide Inc.</i>	D. Kan.	11/17/2009	✓			Settled
<i>Harrington v. Perry</i>	C.D. Cal.	08/04/2008	✓			Settled
<i>Harrington v. Textron Inc.</i>	D.R.I.	10/20/2009	✓			Pending
<i>Harris v. Amgen Inc.</i>	C.D. Cal.	08/20/2007	✓			On appeal
<i>Harris v. First Regional Bancorp</i>	C.D. Cal.	09/24/2010	✓			Settled
<i>Hartter v. Perez</i>	W.D.N.Y.	03/22/2012	✓			Pending
<i>Haskins v. Gen. Elec. Co.</i>	S.D. Cal.	09/26/2017		✓	✓	Pending
<i>Hays v. Constellation Energy Group Inc.</i>	D. Md.	10/09/2008	✓			Dismissed
<i>Healthcare Strategies Inc. v. ING Life Insurance and Annuity Co.</i>	D. Conn.	02/23/2011		✓		Pending
<i>Hellman v. SunTrust Banks Inc.</i>	N.D. Ga.	08/29/2008	✓			On appeal
<i>Henderson v. Emory Univ.</i>	N.D. Ga.	08/11/2016		✓		Pending
<i>Hill v. State Street Corp.</i>	D. Mass.	12/18/2009	✓			Pending
<i>Hochstadt v. Boston Scientific Corp.</i>	D. Mass.	12/24/2008	✓			Settled
<i>Hoffman v. American International Group Inc.</i>	S.D.N.Y.	06/25/2008	✓			Pending
<i>Howard v. Bear Stearns Cos.</i>	S.D.N.Y.	03/17/2008	✓			Settled
<i>Humphries v. BP Corp. North America Inc.</i>	S.D. Tex.	07/09/2010	✓			Pending
<i>In re 2014 Avon Products, Inc. ERISA Litigation</i>	S.D.N.Y.	12/23/2014	✓			Pending
<i>In re 2014 RadioShack ERISA Litigation</i>	N.D. Tex.	11/26/2014	✓			Closed

Case name	Court	Complaint filed	Listed basis or bases of claim			Status
			Inappropriate Investments	Excessive fees	Self-dealing	
<i>In re American Express ERISA Litigation</i>	S.D.N.Y.	12/12/2008	✓			Dismissed
<i>In re Bank of America Corp. ERISA Litigation</i>	S.D.N.Y.	06/11/2009	✓			On appeal
<i>In re BP PLC ERISA Litigation</i>	S.D. Tex.	08/10/2010	✓			Pending
<i>In re Citigroup ERISA Litigation</i>	S.D.N.Y.	11/05/2007	✓			Decided
<i>In re Colonial Bancgroup Inc. ERISA Litigation</i>	M.D. Ala.	08/20/2009	✓			Settled
<i>In re Disney ERISA Litig.</i>	C.D. Cal.	04/01/2016	✓			Pending
<i>In re HP ERISA Litig.</i>	N.D. Cal.	12/06/2012	✓			On appeal
<i>In re J.P. Morgan Stable Value Fund ERISA Litigation</i>	S.D.N.Y.	04/03/2012	✓			Pending
<i>In re Lehman Brothers ERISA Litigation</i>	S.D.N.Y.	01/09/2009	✓			On appeal
<i>In re Morgan Stanley ERISA Litigation</i>	S.D.N.Y.	12/14/2007	✓			Pending
<i>In re Regions Morgan Keegan ERISA Litigation</i>	W.D. Tenn.	02/17/2009	✓	✓	✓	Pending
<i>In re SLM ERISA Litigation</i>	S.D.N.Y.	05/08/2008	✓			On appeal
<i>In re SunTrust Banks Inc. ERISA Litigation</i>	N.D. Ga.	10/31/2008	✓			On appeal
<i>In re Textron Inc. ERISA Litigation</i>	D.R.I.	08/21/2009	✓			Settled
<i>In re Wachovia Corp. ERISA Litigation</i>	W.D.N.C.	06/29/2009	✓			Settled
<i>In re: Bank of N.Y. Mellon Corp. Forex Transactions Litig.</i>	S.D.N.Y.	12/31/2015		✓		Pending
<i>Ingram v. Health Management Associates Inc.</i>	M.D. Fla.	08/20/2007	✓			Dismissed
<i>Ingram v. Kaufmann</i>	W.D. Mo.	01/11/2010	✓			Dismissed
<i>Insinga v. United of Omaha Life Insurance Co.</i>	D. Neb.	05/26/2017		✓		Pending
<i>Jackson v. Morgan Asset Management Inc.</i>	W.D. Tenn.	04/11/2008	✓		✓	Pending
<i>Jacobs v. Verizon Communications</i>	S.D.N.Y.	02/11/2016	✓	✓		Pending
<i>Jander v. Int'l Bus. Machs. Corp.</i>	S.D.N.Y.	05/15/2015	✓			Pending
<i>Johnson v. Delta Air Lines, Inc.</i>	D. Del.	12/20/2016		✓		Pending
<i>Johnson v. Fujitsu Tech. & Bus. of Am., Inc.</i>	N.D. Cal.	06/30/2016		✓		Pending
<i>Johnson v. Providence Health & Servs.</i>	W.D. Wash.	11/28/2017		✓		Pending
<i>Johnson v. Radian Group Inc.</i>	E.D. Pa.	04/29/2008	✓			Dismissed
<i>Jones v. Constellation Energy Group Inc.</i>	D. Md.	11/25/2008	✓			Dismissed
<i>Jones v. Great Plains Tr. Co.</i>	D. Kan.	07/12/2017	✓			Pending
<i>Jones v. Novastar Financial Inc.</i>	W.D. Mo.	07/08/2008	✓			Settled
<i>Jones v. Wellpoint Inc.</i>	S.D. Ind.	06/10/2008	✓			Pending
<i>Jordan v. International Game Technology</i>	D. Nev.	10/02/2009	✓			Pending
<i>Jump v. Hartford Financial Services Group</i>	D. Conn.	12/04/2008	✓			Dismissed
<i>Kandinov v. IndyMac Bancorp Inc.</i>	C.D. Cal.	07/15/2008	✓			Settled
<i>Karpik v. Huntington Bancshares Inc.</i>	S.D. Ohio	12/29/2017		✓	✓	Pending
<i>Kelley v. Wachovia Corp.</i>	W.D.N.C.	07/25/2008	✓			Pending

Case name	Court	Complaint filed	Listed basis or bases of claim			Status
			Inappropriate Investments	Excessive fees	Self-dealing	
<i>Kelly v. Johns Hopkins Univ.</i>	D. Md.	08/11/2016		✓		Pending
<i>Kilpatrick v. Great-West Life & Annuity Ins. Co.</i>	D. Colo.	09/04/2015		✓		Pending
<i>Klingler v. Beazer Homes USA Inc.</i>	N.D. Ga.	07/27/2007	✓			Settled
<i>Knoll v. Target Corp.</i>	D. Minn.	07/12/2016	✓			Pending
<i>Kretsinger v. Amcore Financial Inc.</i>	N.D. Ill.	05/24/2010	✓			Dismissed
<i>Krikorian v. Great-West Life & Annuity Ins. Co.</i>	D. Colo.	01/14/2016		✓		Pending
<i>Krikorian v. Great-West Life & Annuity Ins. Co.</i>	D. Colo.	01/14/2015		✓		Pending
<i>Krueger v. Ameriprise Financial Inc.</i>	D. Minn.	09/28/2011		✓	✓	Pending
<i>Kruger v. Novant Health, Inc.</i>	M.D.N.C.	03/12/2014		✓		Pending
<i>Lang v. Constellation Energy Group Inc.</i>	D. Md.	12/12/2008	✓			Dismissed
<i>Larson v. Allina Health Sys.</i>	D. Minn.	08/18/2017		✓		Pending
<i>Lau v. Metro. Life Ins. Co.</i>	S.D.N.Y.	12/03/2015		✓		Pending
<i>Laue v. Sterling Financial Corp.</i>	E.D. Wash.	01/20/2010	✓			Settled
<i>Leal v. State Street Bank & Trust Co.</i>	D. Mass.	03/25/2017		✓		Pending
<i>Leber v. Citigroup Inc.</i>	S.D.N.Y.	10/18/2007			✓	Pending
<i>Lechner v. Mutual of Omaha Ins. Co.</i>	D. Neb.	01/25/2018		✓	✓	Pending
<i>Lefkowitz v. Teachers Ins. & Annuity Assoc.</i>	S.D.N.Y.	03/15/2016		✓		Pending
<i>Lewis v. American International Group Inc.</i>	S.D.N.Y.	07/03/2008	✓			Dismissed
<i>Lilly v. Oneida Ltd. Employee Benefits Administrative Committee</i>	N.D.N.Y.	03/29/2007	✓			Settled
<i>Linton v. SunEdison, Inc.</i>	E.D. Mo.	02/12/2016	✓			Pending
<i>Lipman v. Terex Corp.</i>	D. Conn.	01/05/2010	✓			Pending
<i>Lo v. Intel Corp.</i>	N.D. Cal.	01/31/2016		✓		Pending
<i>Lorenz v. Safeway Inc.</i>	N.D. Cal.	08/25/2016		✓		Pending
<i>Ludlum v. UBS AG</i>	S.D.N.Y.	07/31/2008	✓			Pending
<i>Ludwig v. American International Group Inc.</i>	S.D.N.Y.	08/05/2008	✓			Pending
<i>Lynn v. Peabody Energy Corp.</i>	E.D. Mo.	06/11/2015	✓			Pending
<i>Main v. Am. Airlines, Inc.</i>	N.D. Tex.	04/15/2016		✓		Pending
<i>Majd v. Nokia Inc.</i>	S.D.N.Y.	04/19/2010	✓			On appeal
<i>Major v. Morgan Stanley</i>	S.D.N.Y.	01/18/2008	✓			Pending
<i>Malone v. Teachers Ins. & Annuity Assoc. of Am.</i>	D. Mass.	10/13/2015		✓		Pending
<i>Mansfield v. Riverside Banking Co.</i>	S.D. Fla.	06/04/2010	✓			Dismissed
<i>Marshall v. Northrop Grumman Corp.</i>	C.D. Cal.	09/09/2016		✓		Pending
<i>Martin v. Caterpillar Inc.</i>	C.D. Ill.	01/11/2007		✓		Settled
<i>Mass v. American International Group Inc.</i>	S.D.N.Y.	07/18/2008	✓			Dismissed
<i>Matthews Pease v. Jackson Nat'l Life Ins. Co.</i>	W.D. Mich.	03/29/2017		✓	✓	Pending

Case name	Court	Complaint filed	Listed basis or bases of claim			Status
			Inappropriate Investments	Excessive fees	Self-dealing	
<i>Mauer v. Eastman Kodak Savings and Investment Plan Committee</i>	W.D.N.Y.	02/16/2012	✓			Pending
<i>Mayer v. Smurfit-Stone Container Corp. Retirement Plans</i>	N.D. Ill.	05/18/2009	✓			Settled
<i>McCaffree Financial Corp. v. Principal Life Insurance Co.</i>	S.D. Iowa	03/18/2014		✓		Pending
<i>McCorvey v. Nordstrom, Inc.</i>	C.D. Cal.	11/06/2017		✓		Pending
<i>McCoy v. Avon Prods., Inc. Retirement Board</i>	S.D.N.Y.	03/12/2015	✓			Closed
<i>McDonald v. Edward D. Jones & Co.</i>	E.D. Mo.	08/19/2016		✓	✓	Pending
<i>McFadden v. Bancgroup Benefits Administration and Investment Committee</i>	M.D. Ala.	09/02/2009	✓			Pending
<i>McFarlan v. Bollenback</i>	S.D.N.Y.	10/10/2008	✓			Dismissed
<i>McGuire v. BP Corp. North America Inc.</i>	S.D. Tex.	07/13/2010	✓			Pending
<i>McKay v. Colonial Bancgroup Inc.</i>	M.D. Ala.	08/25/2009	✓			Pending
<i>McWilliams v. SandRidge Energy Inc.</i>	W.D. Okla.	09/14/2015	✓			Pending
<i>Meiners v. Wells Fargo & Co.</i>	D. Minn.	11/22/2016		✓	✓	Pending
<i>Meriwether v. Sears Holding Corp.</i>	N.D. Ill.	08/10/2017	✓			Pending
<i>Merriam v. Demoulas Super Markets Inc.</i>	D. Mass.	04/06/2011	✓			Pending
<i>Metcalf v. Constellation Energy Group Inc.</i>	D. Md.	11/06/2008	✓			Dismissed
<i>Metcalfe v. Perry</i>	C.D. Cal.	08/08/2008	✓			Dismissed
<i>Mick v. Chesapeake Energy Corp.</i>	W.D. Okla.	07/17/2012	✓			Dismissed
<i>Miller v. Beazer Homes USA Inc.</i>	N.D. Ga.	04/30/2007	✓			Settled
<i>Mimms v. American International Group Inc.</i>	S.D.N.Y.	09/16/2008	✓			Dismissed
<i>Mimms v. PricewaterhouseCoopers LLC</i>	S.D.N.Y.	01/04/2011	✓			Dismissed
<i>Mineman v. BP Corp. North America Inc.</i>	S.D. Tex.	07/14/2010	✓			Pending
<i>Miner v. American Express Co.</i>	S.D.N.Y.	02/04/2009	✓			Dismissed
<i>Monaghan v. JPMorgan Chase & Co.</i>	S.D.N.Y.	03/30/2017		✓	✓	Pending
<i>Montanez v. Popular Inc.</i>	D.P.R.	07/13/2009	✓			Settled
<i>Moore v. IndyMac Bancorp</i>	C.D. Cal.	07/14/2008	✓			Settled
<i>Morello v. Hartford Financial Services Group Inc.</i>	D. Conn.	11/21/2008	✓			Dismissed
<i>Moreno v. Deutsche Bank Ams. Holding Corp.</i>	S.D.N.Y.	12/21/2015		✓		Pending
<i>Morin v. Essentia Health</i>	D. Minn.	12/29/2016		✓		Pending
<i>Morrison v. Citizens Republic Bancorp Inc.</i>	E.D. Mich.	04/19/2011	✓			Pending
<i>Morrison v. MoneyGram International Inc.</i>	D. Minn.	04/22/2008	✓			Settled
<i>Morrow v. Colonial Bancgroup Inc.</i>	M.D. Ala.	08/28/2009	✓			Pending
<i>Moule v. BP Corp. North America Inc.</i>	S.D. Tex.	06/28/2010	✓			Pending
<i>Muehlgay v. Citigroup Inc.</i>	S.D.N.Y.	12/08/2011	✓			Pending
<i>Muir v. Prudential Retirement Ins. & Annuity Co.</i>	D. Conn.	02/26/2016		✓		Pending

Case name	Court	Complaint filed	Listed basis or bases of claim			Status
			Inappropriate Investments	Excessive fees	Self-dealing	
<i>Munro v. Univ. of S. Cal.</i>	C.D. Cal.	08/17/2016		✓		Pending
<i>Myers v. 401(k) Fiduciary Comm. for Seventy Seven Energy Inc.</i>	W.D. Okla.	02/24/2017	✓			Pending
<i>Nashua Corp. Pension Plan Committee v. State Street Bank and Trust Co.</i>	S.D.N.Y.	01/14/2008	✓			Settled
<i>Nicolas v. Trs. of Princeton Univ.</i>	D.N.J.	05/23/2017		✓		Pending
<i>Ninow v. Hartford Financial Services Group Inc.</i>	D. Conn.	11/12/2008	✓			Settled
<i>Nolte v. CIGNA Corp.</i>	C.D. Ill.	02/26/2007		✓	✓	Settled
<i>Normand v. Merck & Co.</i>	D.N.J.	06/23/2008	✓			Pending
<i>Nowak v. Ford Motor Co.</i>	E.D. Mich.	04/07/2006	✓			Settled
<i>Obester v. American Express Co.</i>	S.D.N.Y.	12/12/2008	✓			Dismissed
<i>O'Connor v. Health Management Associates Inc.</i>	M.D. Fla.	10/22/2007	✓			Dismissed
<i>Orellana v. JPMorgan Chase & Co.</i>	S.D.N.Y.	03/02/2017		✓	✓	Pending
<i>Orlando v. Motorola Inc.</i>	N.D. Ill.	02/10/2010	✓			Pending
<i>Ormond v. Allergan PLC</i>	D.N.J.	03/07/2017	✓			Pending
<i>Ostrander v. DST Sys., Inc.</i>	W.D. Mo.	09/07/2017	✓			Pending
<i>Outten v. Wilmington Trust Corp.</i>	D. Del.	12/20/2010	✓			Pending
<i>Partovipannah v. Fifth Third Bancorp</i>	S.D. Ohio	09/11/2008	✓			Dismissed
<i>Patricio v. Voya Fin., Inc.</i>	S.D.N.Y.	09/09/2016		✓		Pending
<i>Patten v. Northern Trust Corp.</i>	N.D. Ill.	10/15/2008	✓			Dismissed
<i>Patterson v. Capital Grp. Cos.</i>	C.D. Cal.	06/13/2017		✓	✓	Pending
<i>Patterson v. Morgan Stanley</i>	S.D.N.Y.	08/19/2016		✓	✓	Pending
<i>Patterson v. Pilgrim</i>	E.D. Tex.	12/17/2008	✓			Pending
<i>Perez v. PFF Bancorp Inc.</i>	C.D. Cal.	08/12/2008	✓			Settled
<i>Perez v. Textron Inc.</i>	D.R.I.	09/10/2009	✓			Pending
<i>Petisco v. Sippial</i>	M.D. Ala.	08/28/2009	✓			Pending
<i>Pfeil v. State Street Bank and Trust Co.</i>	E.D. Mich.	06/09/2009	✓			On appeal
<i>Phillips v. IndyMac Bancorp Inc.</i>	C.D. Cal.	07/18/2008	✓			Dismissed
<i>Phipps v. Constellation Energy Group Inc.</i>	D. Md.	12/04/2008	✓			Dismissed
<i>Pledger v. Reliance Trust Co.</i>	N.D. Ga.	12/22/2015		✓		Pending
<i>Pompa v. Colonial Bancgroup Inc.</i>	M.D. Ala.	08/20/2009	✓			Pending
<i>Powell v. Gen. Elec. Co.</i>	D. Mass.	11/01/2017		✓	✓	Pending
<i>Price v. Strianese</i>	S.D.N.Y.	01/27/2017	✓			Pending
<i>Pueblo of Laguna Retirement Committee v. MetLife Insurance Co. of Connecticut</i>	D.N.M.	05/22/2012		✓		Settled
<i>Quan v. Computer Sciences Corp.</i>	C.D. Cal.	04/11/2008	✓			Decided
<i>Quintana v. Constellation Energy Group Inc.</i>	D. Md.	12/03/2008	✓			Dismissed

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			Inappropriate Investments	Excessive fees	Self-dealing	
<i>Ragan v. Advanta Corp.</i>	E.D. Pa.	10/29/2009	✓			Pending
<i>Ramirez v. J.C. Penney Corp.</i>	E.D. Tex.	07/08/2014	✓			Pending
<i>Ramos v. Amgen Inc.</i>	C.D. Cal.	05/19/2008	✓			On appeal
<i>Richard v. Hartford Financial Services Group Inc.</i>	D. Conn.	11/26/2008	✓			Dismissed
<i>Richard v. State Street Corp.</i>	D. Mass.	02/05/2010	✓			Pending
<i>Richards-Donald v. Teachers Ins. & Annuity Assoc. of Am.</i>	S.D.N.Y.	10/13/2015			✓	Pending
<i>Riely v. BP Corp. North America Inc.</i>	S.D. Tex.	07/16/2010	✓			Pending
<i>Riggs v. Humana Inc.</i>	W.D. Ky.	06/10/2008	✓			Dismissed
<i>Rinehart v. Lehman Brothers Holdings Inc.</i>	S.D.N.Y.	06/20/2008	✓			Pending
<i>Rodriguez v. Wells Fargo & Co.</i>	S.D.N.Y.	03/03/2009	✓			Dismissed
<i>Roe v. Arch Coal Inc.</i>	E.D. Mo.	06/09/2015	✓			Pending
<i>Romero v. Nokia Corp.</i>	S.D.N.Y.	09/19/2012	✓			Dismissed
<i>Rosen v. Prudential Retirement Ins. & Annuity Co.</i>	D. Conn.	12/18/2015		✓		Pending
<i>Ross v. Hardison</i>	D. Minn.	10/24/2016	✓			Pending
<i>Roundtree v. Marshall & Ilsley Corp.</i>	E.D. Wis.	04/30/2010	✓			On appeal
<i>Rozo v. Principal Life Ins. Co.</i>	S.D. Iowa	11/14/2014		✓		Pending
<i>Russell v. Harman International Industries Inc.</i>	D.D.C.	12/07/2007	✓			Pending
<i>Sacerdote v. N.Y. Univ.</i>	S.D.N.Y.	08/09/2016		✓		Pending
<i>Sacerdote v. Ret. Plan Comm.</i>	S.D.N.Y.	11/13/2017		✓		Pending
<i>Sage v. Textron Inc.</i>	D.R.I.	11/10/2009	✓			Pending
<i>Sandoval v. IndyMac Bank</i>	C.D. Cal.	08/13/2008	✓			Dismissed
<i>Sansano v. Bank of New York Mellon Corp.</i>	W.D. Pa.	11/04/2011	✓			Dismissed
<i>Schaefer v. Bancgroup Benefits Administration Committee</i>	M.D. Ala.	08/28/2009	✓			Pending
<i>Schapker v. Waddell & Reed Fin. Inc.</i>	D. Kan.	06/23/2017		✓	✓	Pending
<i>Schmalz v. Sovereign Bancorp Inc.</i>	E.D. Pa.	02/21/2008	✓			Pending
<i>Schmitt v. Nationwide Life Ins. Co.</i>	S.D. Ohio	06/27/2017		✓		Pending
<i>Scholl v. Chesapeake Energy Corp.</i>	W.D. Okla.	03/14/2017	✓			Pending
<i>Schultz v. Edward D. Jones & Co., L.P.</i>	E.D. Mo.	11/11/2016		✓	✓	Pending
<i>Schweitzer v. Inv. Comm. of Phillips 66 Savings Plan</i>	S.D. Tex.	10/09/2017	✓			Pending
<i>Scott v. Aon Hewitt Fin. Advisors, LLC</i>	N.D. Ill.	01/27/2017	✓	✓		Pending
<i>Scrydoff v. JPMorgan Chase & Co.</i>	S.D.N.Y.	05/22/2012	✓			Dismissed
<i>Sears v. Wellpoint Inc.</i>	S.D. Ind.	06/13/2008	✓			Dismissed
<i>Severson v. Charles Schwab Corp.</i>	N.D. Cal.	01/19/2017		✓	✓	Pending

Case name	Court	Complaint filed	Listed basis or bases of claim			Status
			Inappropriate Investments	Excessive fees	Self-dealing	
<i>Sewright v. ING Groep N.V.</i>	N.D. Ga.	02/13/2009	✓			Settled
<i>Shane v. Amcor Financial Inc.</i>	N.D. Ill.	04/14/2010	✓			Pending
<i>Shanehchian v. Macy's Inc.</i>	S.D. Ohio	10/03/2007	✓			Settled
<i>Sheets v. Textron Inc.</i>	D.R.I.	09/02/2009	✓			Pending
<i>Shockley v. Colonial Bancgroup Benefits Administration and Investment Committee</i>	M.D. Ala.	09/11/2009	✓			Pending
<i>Short v. Brown Univ.</i>	D.R.I.	07/06/2017		✓		Pending
<i>Siefken v. Morgan Stanley</i>	S.D.N.Y.	12/20/2007	✓			Pending
<i>Silvestros v. Pilgrim</i>	E.D. Tex.	07/01/2010	✓			Pending
<i>Simmons v. Target Corp.</i>	D. Minn.	07/15/2016	✓			Pending
<i>Sims v. BB&T Corp.</i>	M.D.N.C.	09/04/2015		✓		Pending
<i>Sims v. First Horizon National Corp.</i>	W.D. Tenn.	05/09/2008	✓		✓	Settled
<i>Sims-King v. Wash. Univ. in St. Louis</i>	E.D. Mo.	06/23/2017		✓		Pending
<i>Sisters of Charity v. State Street Bank and Trust Co.</i>	S.D.N.Y.	04/06/2009	✓			Dismissed
<i>Slaymon v. SLM Corp.</i>	S.D.N.Y.	05/08/2008	✓			Pending
<i>Smalls v. Pilgrim</i>	E.D. Tex.	01/12/2009	✓			Pending
<i>Smith v. BB&T Corp.</i>	M.D.N.C.	10/08/2015			✓	Pending
<i>Smith v. Orion Bancorp Inc.</i>	M.D. Fla.	04/29/2010	✓			Settled
<i>Snyder v. Radio Shack Corp.</i>	N.D. Tex.	12/05/2014	✓			Pending
<i>Soesman v. BP P.L.C.</i>	S.D. Tex.	08/05/2010	✓			Pending
<i>Solano v. Wal-Mart Stores, Inc.</i>	C.D. Cal.	05/26/2017		✓		Pending
<i>Spano v. Boeing Co.</i>	S.D. Ill.	09/28/2006		✓		Pending
<i>Spires v. Schools</i>	D.S.C.	02/26/2016	✓			Pending
<i>Stanislaus v. UBS AG</i>	S.D.N.Y.	08/28/2008	✓			Pending
<i>Stargel v. SunTrust Banks Inc.</i>	N.D. Ga.	10/31/2012			✓	Pending
<i>Stetka v. General Growth Properties Inc.</i>	N.D. Ill.	12/03/2008	✓			Dismissed
<i>Stirsman v. JPMorgan Chase Bank</i>	S.D.N.Y.	03/08/2017		✓	✓	Pending
<i>Stricker v. Bank of America Corp. Corporate Benefits Committee</i>	S.D.N.Y.	02/09/2009	✓			Pending
<i>Sullivan v. Gen. Elec. Co.</i>	D. Mass.	10/30/2017		✓	✓	Pending
<i>Sullivan v. McGraw-Hill Cos.</i>	S.D.N.Y.	06/12/2009	✓			Decided
<i>Sulyma v. Intel Corp. Investment Policy Committee</i>	N.D. Cal.	10/29/2015		✓		Pending
<i>Swetic v. Community National Bank Corp.</i>	M.D. Fla.	12/30/2009	✓			Dismissed
<i>Tang v. American Express Co.</i>	S.D.N.Y.	12/29/2008	✓			Dismissed
<i>Taveras v. UBS AG</i>	S.D.N.Y.	07/28/2008	✓			Dismissed

Case name	Court	Complaint filed	Listed basis or bases of claim			Status
			Inappropriate Investments	Excessive fees	Self-dealing	
<i>Taylor v. McKelvey</i>	S.D.N.Y.	10/12/2006	✓			Settled
<i>Teets v. Great-West Life & Annuity Ins. Co.</i>	E.D. Cal.	06/04/2014		✓		Dismissed
<i>Terrazas v. Bank of New York Mellon Corp.</i>	W.D. Pa.	11/15/2011	✓			Dismissed
<i>Tomassini v. Oracle Corp.</i>	N.D. Cal.	06/24/2016	✓			Pending
<i>Tompkins v. Textron Inc.</i>	D.R.I.	09/18/2009	✓			Pending
<i>Torregroza v. Beville</i>	M.D. Ala.	08/15/2009	✓			Pending
<i>Tracey v. Mass. Inst. of Tech.</i>	D. Mass.	08/09/2016		✓		Pending
<i>Troudt v. Oracle Corp.</i>	D. Colo.	01/22/2016		✓		Pending
<i>Tussey v. ABB Inc.</i>	W.D. Mo.	12/29/2006		✓		On appeal
<i>Uberti v. Huntington Bancshares Inc.</i>	S.D. Ohio	02/29/2008	✓			Dismissed
<i>Urakhchin v. Allianz Asset Mgmt. of Am. L.P. Savings & Retirement Plan</i>	C.D. Cal.	10/07/2015			✓	Pending
<i>Urban v. Comcast Corp.</i>	E.D. Pa.	02/15/2008	✓			Settled
<i>Usenko v. SunEdison Inc.</i>	E.D. Mo.	01/20/2016	✓			Pending
<i>Usenko v. SunEdison Inc.</i>	E.D. Mo.	01/20/2015	✓			Pending
<i>Veera v. Ambac Financial Group Inc.</i>	S.D.N.Y.	05/24/2010	✓			Settled
<i>Velazquez v. Mass. Fin. Servs. Co.</i>	D. Mass.	07/07/2017		✓	✓	Pending
<i>Vellali v. Yale Univ.</i>	D. Conn.	08/09/2016		✓		Pending
<i>Vigil v. Wellpoint Inc.</i>	S.D. Ind.	06/18/2008	✓			Dismissed
<i>Wald v. Bank of America Corp.</i>	S.D.N.Y.	12/07/2011	✓			Pending
<i>Walker v. Merrill Lynch & Co., Inc.</i>	S.D.N.Y.	03/16/2015		✓		Pending
<i>Walsh v. Popular Inc.</i>	D.P.R.	06/17/2009	✓			Settled
<i>Walter v. Level 3 Communications Inc.</i>	D. Colo.	03/24/2009	✓			Settled
<i>Wang v. IndyMac Bank</i>	C.D. Cal.	08/01/2008	✓			Dismissed
<i>Ward v. JPMorgan Chase & Co.</i>	S.D.N.Y.	09/20/2012	✓			Pending
<i>Washington v. IndyMac Bancorp Inc.</i>	C.D. Cal.	08/08/2008	✓			Dismissed
<i>Wayman v. Wells Fargo & Co.</i>	D. Minn.	12/17/2017		✓	✓	Pending
<i>Webb v. Terex Corp.</i>	D. Conn.	02/03/2010	✓			Pending
<i>Weber v. Countrywide Financial Corp.</i>	C.D. Cal.	01/15/2008	✓			Dismissed
<i>Welch v. Wachovia Corp.</i>	W.D.N.C.	07/18/2008	✓			Pending
<i>Wellons v. American International Group Inc.</i>	S.D.N.Y.	06/25/2008	✓			Pending
<i>West v. Wellpoint Inc.</i>	S.D. Ind.	04/15/2008	✓			On appeal
<i>Whisby v. SunTrust Banks Inc.</i>	N.D. Ga.	06/04/2009	✓			On appeal
<i>White v. Chevron Corp.</i>	N.D. Cal.	02/17/2016		✓		Pending
<i>White v. Marshall & Ilsley Corp.</i>	E.D. Wis.	04/03/2010	✓			On appeal
<i>Wildman v. Am. Century Servs., LLC</i>	W.D. Mo.	06/30/2016		✓		Pending

Case name	Court	Complaint filed	Listed basis or bases of claim			Status
			Inappropriate Investments	Excessive fees	Self-dealing	
<i>Will v. General Dynamics Corp.</i>	S.D. Ill.	09/11/2006		✓		Settled
<i>Willard v. Wachovia Corp.</i>	W.D.N.C.	07/08/2008	✓			Pending
<i>Wilson v. Edison Int'l, Inc.</i>	C.D. Cal.	11/24/2015	✓			Pending
<i>Winfield v. Citigroup Inc.</i>	S.D.N.Y.	12/08/2011	✓			Pending
<i>Wittman v. N.Y. Life Ins. Co.</i>	S.D.N.Y.	12/08/2015		✓		Pending
<i>Wolpin v. Magnacca</i>	N.D. Tex.	02/13/2015	✓			Pending
<i>Wood v. Prudential Ret. Ins. & Annuity Co.</i>	D. Conn.	12/03/2015		✓		Pending
<i>Woodward v. PFF Bancorp Inc.</i>	C.D. Cal.	03/20/2009	✓			Dismissed
<i>Wright v. Medtronic Inc.</i>	D. Minn.	02/24/2009	✓			Decided
<i>Wright v. Wachovia Corp.</i>	W.D.N.C.	06/11/2008	✓			Pending
<i>Xie v. Inv. Comm. & Benefits Oversight Comm. of Allergan Inc. Savings & Inv. Plan</i>	C.D. Cal.	02/14/2017	✓			Pending
<i>Ybarra v. Bd. of Trs. of Supplemental Income Trust Fund</i>	C.D. Cal.	11/30/2017		✓		Pending
<i>Yeaw v. FMR LLC</i>	D. Mass.	01/07/2014		✓		Pending
<i>Young v. Heimbuch</i>	C.D. Cal.	11/19/2010	✓			Settled
<i>Zable v. General Growth Properties Inc.</i>	N.D. Ill.	11/25/2008	✓			Settled
<i>Zang v. Paychex Inc.</i>	W.D.N.Y.	01/30/2008		✓		Dismissed
<i>Zdziarski v. Swanson</i>	N.D. Ill.	12/07/2009	✓			Settled

Note: Table includes all cases for which the "Basis of Claim" was listed by the Bloomberg Bureau of National Affairs (BNA) ERISA Litigation Tracker as "Employer stock investment losses," "Excessive or unreasonable 401(k) plan fees," "Proprietary mutual funds investments," "Selection and monitoring of investment advisers/managers," and/or "Subprime mortgage-related investment losses."

Source: Bloomberg Bureau of National Affairs, *ERISA Litigation Tracker* (2018).

About the Center

The mission of the Center for Retirement Research at Boston College is to produce first-class research and educational tools and forge a strong link between the academic community and decision-makers in the public and private sectors around an issue of critical importance to the nation's future. To achieve this mission, the Center sponsors a wide variety of research projects, transmits new findings to a broad audience, trains new scholars, and broadens access to valuable data sources. Since its inception in 1998, the Center has established a reputation as an authoritative source of information on all major aspects of the retirement income debate.

Affiliated Institutions

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