

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

ADA DORIS HOFASAS : CIVIL ACTION
: :
v. : :
: :
MONTGOMERY HOSPITAL MEDICAL : NO. 00-CV-1202
CENTER, MONTGOMERY HOSPITAL : :
RETIREMENT : :

MEMORANDUM

Ludwig, J

October 5, 2000

Plaintiff Ada Doris Hofasas and defendant Montgomery Hospital Medical Center, Montgomery Hospital Retirement, cross-move for summary judgment. Fed. R. Civ. P. 56.¹ Jurisdiction is federal question. 28 U.S.C. § 1331.

This is an ERISA action. 29 U.S.C. § 1001 et seq. The following are agreed facts.² From October 25, 1966 to her retirement on September 1, 1998, plaintiff was employed by defendant as a registered nurse. As an employee, plaintiff was eligible to participate in defendant's Montgomery Hospital Retirement Plan. On November 4, 1992, as a plan participant, plaintiff received from

¹ Summary judgment is appropriate if there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law. The movant must show that there is no triable issue. The nonmovant having the burden of proof at trial must point to affirmative evidence in the record – and not simply rely on allegations or denials in the pleading – in order to defeat a properly supported motion. Celotex Corp. v. Catrett, 477 U.S. 317, 324, 106 S.Ct. 2548, 2553, 91 L.Ed.2d 265 (1986); Shelton v. University of Medicine & Denistry of New Jersey, 223 F.3d 220, 224 (3d Cir. 2000).

² These facts are set forth in “Parties’ Joint Stipulation of Facts,” filed September 8, 2000.

defendant a “Statement of Retirement Benefits”³ containing two retirement calculations.

According to the Statement, if plaintiff retired on January 1, 1993, under an early retirement program, her monthly benefit would be \$2,139.40. If plaintiff retired at some point after January 1, 1993, the standard retirement monthly benefit would be \$1,672.86. Plaintiff did not accept the enhanced early retirement benefits and continued to be employed by defendant for approximately six more years.

In October 1997, plaintiff was informed by defendant’s human resources department that the standard retirement amount given to her in 1992 had been incorrectly calculated under the terms of the Plan. Instead of \$1,672.86 a month, as specified in the Statement, the revised figure was \$1,474.65. Plaintiff appealed to defendant’s Chief of Human Resources and thereafter to the Plan’s Pension Review Board, claiming to be entitled to the differential of about \$199 a month. Both appeals were denied.

On February 16, 2000, plaintiff filed an action in the Court of Common Pleas of Montgomery County, Pa., for breach of contract. On March 6, 2000 defendant removed the action here, premised on ERISA jurisdiction under 29 U.S.C. § 1001 et seq., and moved to dismiss, citing ERISA preemption. On April 17, 2000, in response to an order dismissing the complaint for failure to

³ The Statement is not part of the Summary Plan Description, which is the statutorily required document that informs participants of the terms of the Plan and its benefits. See 29 U.S.C. § 1022(a); def.’s mem. exh. B.

state a cause of action, Order, April 5, 2000, plaintiff filed an amended complaint, asserting a violation under ERISA. Fed. R. Civ. P. 15(a).

The amended complaint does not identify a particular liability theory. It states that defendant's actions were "contrary to the terms of Plaintiff's employment with Defendant and in violation of the terms and intent of [ERISA]. . ." Compl. at ¶ 1. Although not asserted explicitly, the basis for this claim appears to be that the 1992 Statement of projected retirement benefits constituted a contract, which defendant violated. See Pl.'s mem. at 4, 5. However, under ERISA, plaintiff's rights are established solely by the terms of the Plan, In re Unisys Corp. Retiree Medical Benefit "ERISA" Litigation, 58 F.3d 896, 902 (3d Cir. 1995); and an employer cannot modify benefit plans through oral or informal communications, Hozier v. Midwest Fasteners, Inc., 908 F.2d 1155, 1164 (3d Cir. 1990).

Plaintiff contends that she relied on the 1992 Statement in delaying her retirement, Compl. ¶ C, and that defendant abrogated its fiduciary duties of loyalty and care by misrepresenting the terms of the Plan, Pltf.'s mem. at 6.⁴ Our Court of Appeals has recognized that an employer, acting as a plan administrator, may be liable under ERISA for making affirmative misrepresentations both on equitable estoppel and breach of fiduciary duty grounds. International Union v.

⁴ As part of her summary judgment motion, plaintiff also asserts that material issues of fact exist as to whether "the offer made by the offeror leads the offeree to reasonably believe an offer has been made and the offeree has acted upon the offer." Pltf.'s mem. at 4. However, this is not an ERISA issue, and even if it were it would defeat, not support, plaintiff's motion.

Skinner Engine Co., 188 F.3d 130, 148 n.6, 151 (3d Cir. 1999); 29 U.S.C. § 1132(a)(3) (permitting a beneficiary to obtain “appropriate equitable relief . . . to redress [ERISA] violations or . . . to enforce any provisions of [ERISA] or the terms of the plan.”).

Plaintiff has not met the requirements for an equitable estoppel. The essential elements are (1) a material misrepresentation; (2) a reasonable and detrimental reliance on the misrepresentation; and (3) extraordinary circumstances. Kurz v. Philadelphia Elec. Co., 96 F.3d 1544, 1553 (3d Cir. 1996). Here, what is missing is a triable issue as to “extraordinary circumstances,” as contemplated under ERISA.

“Extraordinary circumstances’ generally involve acts of bad faith on the part of the employer, attempts to actively conceal a significant change in the plan, or commission of fraud.” Jordan v. Federal Express Corp., 116 F.3d 1005, 1011(3rd Cir. 1997). The amended complaint does not allege bad faith conduct or fraudulent conduct on defendant’s part, and plaintiff has not presented Rule 56 to that effect. Although the result was highly unfortunate and, perhaps, uncalled for, the miscalculation does not amount to the extraordinary circumstances necessary to estop defendant from paying the reduced benefits.

So, too, viewing the facts in the light most favorable to plaintiff, as they must be on this motion, it cannot be said that defendant discharged its fiduciary duty. An employer, assuming the role of plan administrator, acts as a fiduciary and “may not materially mislead those to whom the duties of loyalty and

prudence are owed.” Skinner, 188 F.3d 130, 148; see 29 U.S.C. § 1104(a)(1). A breach of fiduciary duty claim may arise “when a plan administrator affirmatively misrepresents the terms of a plan or fails to provide information when it knows that its failure to do so might cause harm.” Skinner, 188 F.3d at 149. Plaintiff proffers no evidence to suggest defendant knew of the miscalculation before correcting its mistake in 1997. “[A] mistake in calculating pension benefits does not constitute willful misconduct or bad faith sufficient to support a breach of fiduciary duty claim.” Gramm v. Bell Atlantic Mgt., 983 F. Supp. 585, 593 (D.N.J. 1997); see Burke v. Latrobe Steel Co., 775 F.2d 88, 91 (3d Cir. 1985) (“[T]rustees do not breach their fiduciary duties by interpreting the [benefits] plan in good faith, even if their interpretation is later determined to be incorrect.”).

Defendant’s summary judgment motion must be granted. As a matter of law, defendant’s mistake in calculating plaintiff’s retirement benefits does not itself create a triable issue of fact.⁵

Edmund V. Ludwig, J.

⁵ The crux of this finding is that plaintiff has not satisfied her Rule 56 burden of showing that she may be entitled to equitable relief.

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ORDER

AND NOW, this 5th day of October, 2000, defendant's motion for summary judgment is granted, plaintiff's cross-motion for summary judgment is denied, and plaintiff's amended complaint is dismissed with prejudice.

Edmund V. Ludwig, J.