

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
DAVENPORT DIVISION

<p>ROBERT J. SENTELIK, Plaintiff, vs. NASH FINCH COMPANY, and HARTFORD LIFE & ACCIDENT INSURANCE COMPANY, Defendants.</p>	<p>No. 3:09-cv-00118-JEG ORDER</p>
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This matter comes before the Court on Defendant Nash Finch Company's (Nash Finch) Motion to Dismiss pursuant to Fed. R. Civ. P. 12(b)(6), filed on February 5, 2010. Plaintiff Robert J. Sentelik (Sentelik) resists. The parties have not requested a hearing, and the Court finds that a hearing is not necessary in resolution of this matter. The matter is fully submitted and ready for disposition.

I. BACKGROUND

Sentelik worked for Nash Finch as an order selector until June 8, 2006. During his employment with Nash Finch, Sentelik was covered under a Group Long-Term Disability Benefits Plan (the Plan) through Nash Finch that was underwritten by Hartford Life & Accident Insurance Company (Hartford). Sentelik sought long-term disability (LTD) benefits under the Plan after his employment with Nash Finch ended. LTD benefits were denied Sentelik under the plan initially and on appeal.

On August 11, 2009, Sentelik filed this Employee Retirement Security Act of 1974 (ERISA)¹ lawsuit seeking an award of LTD benefits, naming both Nash Finch and Hartford as defendants. On February 5, 2010, Nash Finch filed the instant motion and argued that because

¹ 29 U.S.C. § 1001 *et seq.* Sentelik filed the present action pursuant to 29 U.S.C. § 1132(a)(1)(B), which authorizes this Court to review a plan administrator's decision.

Nash Finch had no authority to determine eligibility under the Plan, all claims against it should be dismissed.²

II. DISCUSSION

A. Standard of Review

This Court grants motions to dismiss when the plaintiff fails “to state a claim upon which relief can be granted.” Fed. R. Civ. P. 12(b)(6). The Court views “all facts alleged in the complaint as true.” C.N. v. Willmar Pub. Sch., Ind. Sch. Dist. No. 347, 591 F.3d 624, 629 (8th Cir. 2010). “To survive dismissal, the complaint must allege ‘only enough facts to state a claim to relief that is plausible on its face.’” B&B Hardware, Inc. v. Hargis Indus., Inc., 569 F.3d 383, 387 (8th Cir. 2009) (quoting Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007)). “A district court may consider documents on a motion to dismiss where . . . the plaintiffs’ claims are based solely on the interpretation of the documents and the parties do not dispute the actual contents of the documents.” Jenisio v. Ozark Airlines, Inc. Ret. Plan for Agent & Clerical Employees, 187 F.3d 970, 972 n.3 (8th Cir. 1999) (rejecting the argument that the district court should have converted the motion to dismiss into a motion for summary judgment when it considered the text of the retirement plans and collective bargaining agreements at issue); see also Enervations, Inc. v. Minn. Mining & Mfg. Co., 380 F.3d 1066, 1069 (8th Cir. 2004) (ruling that although outside documents may not be considered in deciding a motion to dismiss, documents necessarily embraced by the complaint are not outside the pleadings); Silver v. H&R Block, Inc., 105 F.3d 394, 397 (8th Cir. 1997).

² Nash Finch’s motion seeks dismissal of Sentelik’s entire complaint. Def.’s Mot. to Dismiss 1. Nash Finch’s briefs are clear, however, that Nash Finch is only seeking dismissal of the complaint insofar as it applies to Nash Finch, effectively removing Nash Finch as a defendant.

B. Analysis

As an initial matter, the Court notes that Sentelik's claims are based solely upon the interpretation of the Plan, and the parties do not dispute the contents of the Plan. Therefore, the Plan is not outside the pleadings, and the Court will consider the text of the Plan in deciding this matter without converting it into a motion for summary judgment.³ Compare Fed. R. Civ. P. 12(d) with Jeniso, 187 F.3d at 972 n.3.

Nash Finch argues that it is not a proper defendant because it did not have any authority under the Plan to make benefits determinations because that responsibility is specifically delegated to Hartford in the Plan. Sentelik counters that because Nash Finch is identified as the plan administrator, it is a proper party to be sued.

Only the party that controls the administration of an ERISA plan is a proper defendant in an action concerning benefits. Layes v. Mead Corp., 132 F.3d 1246, 1249 (8th Cir. 1998) (citing Garren v. John Hancock Mut. Life Ins. Co., 114 F.3d 186, 187 (11th Cir. 1997) ("The proper party defendant in an action concerning ERISA benefits is the party that controls administration on the plan."), and Daniel v. Eaton Corp., 839 F.2d 263, 266 (6th Cir. 1988) ("Unless an employer is shown to control administration of a plan, it is not a proper party defendant in an action concerning benefits.")). A party is only liable for its own breach of fiduciary responsibility except in certain circumstances not applicable here. 29 U.S.C. § 1105(c)(1)-(2). ERISA provides,

(c)(1) The instrument under which a plan is maintained may expressly provide for procedures . . . (B) for named fiduciaries to designate persons other than named fiduciaries to carry out fiduciary responsibilities (other than trustee responsibilities) under the plan.

(2) If a plan expressly provides for a procedure described in paragraph (1), and pursuant to such procedure any fiduciary responsibility of a named fiduciary is allocated to any person, or a person is designated to carry out any such

³ Sentelik agrees that the "Certificate of Insurance" may be considered in this matter, Pl.'s Br. 2; however, the Plan only includes a "certificate of insurance" to certify that Hartford delivered the Plan to Nash Finch. Def.'s Ex. A, 2. The Complaint quotes portions of the Plan outside of the certificate of insurance, Compl. ¶ 11; hence, the Court finds that the entire text of the Plan is necessarily embraced by the pleadings. See Enervations, 380 F.3d at 1069.

responsibility, then such named fiduciary shall not be liable for an act or omission of such person in carrying out such responsibility.

Id.

The Plan names Nash Finch as the Plan Administrator. However, the same page that names Nash Finch as the Plan Administrator includes the following statement:

The benefits described in your booklet-certificate (Booklet) are provided under a group insurance policy (Policy) issued by the Hartford Life and Accident Insurance Company (Insurance Company) and are subject to the Policy's terms and conditions. The Policy is incorporated into, and forms part of, the Plan. The Plan has designated and named the Insurance Company as the claims fiduciary for benefits provided under the Policy. The Plan has granted the Insurance Company full discretion and authority to determine eligibility for benefits and to construe and interpret all terms and provisions of the Policy.

Def.'s Ex. A, 26. The foregoing language makes it clear that only Hartford had any authority to make benefits determinations under the Plan. Indeed, Sentelik does not argue that Nash Finch was involved in the benefits determination except that Nash Finch happened to be named the Plan Administrator. Sentelik's claim in this lawsuit is that he was wrongfully denied benefits under the Plan, a determination that only Hartford could make under the express terms of the Plan. Under the terms of the Plan, proof of all claims is submitted to Hartford, Hartford determines eligibility, Hartford pays approved benefits, and appeals must be made to Hartford. Such terms show that Hartford controls the administration of the Plan. Additionally, Sentelik's Complaint indicates that he complied with the terms of the plan when he made his LTD claim, thereby acknowledging that Hartford was the sole decision maker for determining benefits.

Although the Plan names Nash Finch as the Plan Administrator, it is evident from the Plan itself that such a designation is misleading and does not determine liability under ERISA. The Court finds that only Hartford controlled the administration of the Plan regarding eligibility and plan interpretation – the only decisions challenged by Sentelik. Accordingly, Nash Finch is not a proper defendant to this action.⁴

⁴ This Court has undertaken a similar analysis previously and come to a comparable conclusion. See Cunningham v. Assoc. Benefits Corp., 2001 WL 1678747 (S.D. Iowa Oct. 19,

Sentelik, however, argues that the Court is foreclosed from dismissing the claims against Nash Finch because the Eighth Circuit has yet to rule whether a “party other than the one designated in ERISA plan documents can be sued under [29 U.S.C. § 1132](a)(1)(B).” Pl.’s Br. 3 (quoting Hall v. Lhaco, Inc., 140 F.3d 1190, 1195 (8th Cir. 1998)). Sentelik’s reliance on Hall is misplaced. Under markedly different circumstances involving both the nature of the claim and the nature of the parties in Hall, the court found that its decision in Layes rendered untenable the decision to grant summary judgment in favor of a plan administrator when the district court held that actions for benefits under ERISA could only be brought against the plan itself since Layes clearly held that the proper defendant in an action for benefits under ERISA is the party that controls the administration of the plan. Hall, 140 F.3d at 1194. The court held that Hall was not an appropriate case to determine whether a party other than the named administrator could be a “de facto plan administrator” and therefore a proper defendant in an action arising under § 1132(a)(1)(B). Id. at 1195.

Contrary to Sentelik’s argument, the reservation of this question by the Eighth Circuit in Hall does not compel this Court to find that Nash Finch is a proper defendant nor does it preclude this Court from determining whether Nash Finch is a proper defendant. This case is distinguishable from Hall and presents an appropriate situation to determine that a party other than the named administrator can be a proper defendant in an action for benefits under ERISA. Here, unlike in Hall, (1) the record clearly delineates Hartford’s control of benefit determinations under the plan; (2) Nash Finch has argued that it is not the plan administrator since the inception of this lawsuit; and (3) the parties have had a full opportunity to develop their argument as to whether Nash Finch is a proper defendant. See id. (“We do not deem this to be the appropriate case upon which to decide the question [regarding “de facto” plan administrators], however, not least because of the

2001) (unpublished) (named plan administrator was not a proper defendant because it retained no decision-making authority under the plan and designated another entity to determine eligibility); see also Anderson v. Nationwide Mut. Ins. Co., 592 F. Supp. 2d 1113, 1133 (S.D. Iowa 2009) (finding that when neither party has shown which defendant controls administration of the plan, the court cannot determine whether defendants are properly named).

lack of development of the record or argument on the question below – the district court and [plan participant] seem to have assumed that [the purported plan administrator] was the plan administrator and [the purported plan administrator] did not argue to the contrary until this appeal, and then only in passing.”). Additionally, there is no allegation of Nash Finch attempting to influence benefits determinations. Layes, 132 F.3d at 1249-50.

The Court is satisfied that the holding in Layes coupled with ERISA’s preclusion of liability for parties who do not undertake the fiduciary responsibilities that give rise to the action for benefits allows the Court to determine whether Nash Finch is a proper defendant, notwithstanding the seemingly collateral reservation of the question in Hall.

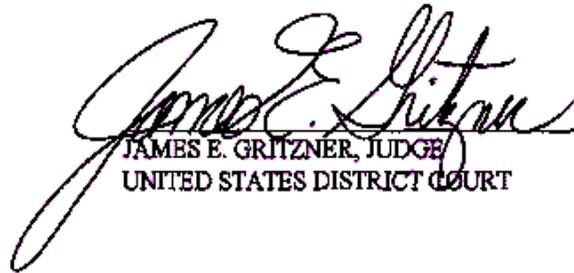
Because Nash Finch cannot receive proof of claims, cannot make benefits determinations, cannot decide appeals of adverse determinations, and cannot pay benefits, Sentelik could not be granted any relief from Nash Finch.⁵ Thus, as to Nash Finch, Sentelik has failed to state a claim upon which relief can be granted. Fed. R. Civ. P. 12(b)(6).

III. CONCLUSION

Based on the foregoing, Defendant Nash Finch’s Motion to Dismiss all claims against Nash Finch (Clerk’s No. 12) must be **granted**.

IT IS SO ORDERED.

Dated this 29th day of March, 2010.



JAMES E. GRITZNER, JUDGE
UNITED STATES DISTRICT COURT

⁵ Clearly then-Chief Judge Longstaff was not even called upon three years later to follow or distinguish Hall when he reached a like conclusion in Cunningham, 2001 WL 1678747 (S.D. Iowa Oct. 19, 2001).