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Supreme Court Shuts Door on Defined-Benefit Plan Participants' ERISA Suits

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In a recent 5–4 decision, the U.S. Supreme Court shut the door on defined-benefit plan participants' standing to sue under the Employee Retirement Income Security Act of 1974 (ERISA). The court held in *Thole v. U.S. Bank N.A.* that participants in a defined-benefit pension plan who have been paid all their pension benefits lack Article III standing to sue for breach of fiduciary duty under ERISA, regardless of any alleged injuries to the plan itself.

The plaintiffs were retired participants in U.S. Bank's defined-benefit retirement plan. The plan guaranteed a fixed payment each month, not dependent on the plan's value or the investment decisions of the plan's fiduciaries. Although the plaintiffs received all their monthly pension benefits, they filed a putative class action against U.S. Bank and plan fiduciaries. The plaintiffs alleged that the plan was underfunded and that the defendants had violated ERISA's duties of loyalty and prudence by poorly investing the plan's assets, investing plan funds in the investment managers' mutual funds, and paying excessive management fees. The plaintiffs requested repayment of $750 million to the plan, as well as injunctive relief, including replacement of the plan's fiduciaries. After the suit was filed, the defendants contributed enough funds to "overfund" the plan.

The Supreme Court limited its consideration to the question of standing. The majority, led by Justice Kavanaugh, held that the plaintiffs lacked standing. Because the plaintiffs had received — and continued to receive — all their monthly benefit payments, the majority reasoned that the outcome of the suit would not affect their ability to receive future benefit payments. As such, neither plaintiff had a concrete stake in the lawsuit and lacked Article III standing.

While *Thole* shuts the door on plan participants' ability to bring fiduciary breach lawsuits if their benefits have not been reduced or otherwise altered, the court left open the possibility that artful

pleading by participants of egregious mismanagement, which would render the plan unable to pay future benefits, could survive dismissal.

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