

**University 403(b) Plan Litigation  
Groom Law Group, Chartered**

**September 2016**



**Active cases are highlighted in yellow.**

Case Number	Case Name	Motion to Dismiss	Motion for Class Certification	Motion for Summary Judgment	Allegations/ Noteworthy Items	Settlement/Judgment
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**Second Circuit**

1	<i>Vellali, et al. v. Yale University, et al.</i> 3:16-cv-01345 (D. Conn.)  Filed 8/9/2016 by Schlichter, Bogard & Denton LLP  Judge Alvin W. Thompson				The complaint alleges that the plan at issue has \$3.6 billion in assets and 37,939 participants. Plaintiffs claim that the plan had two recordkeepers until April 2015, selected without a competitive bidding process, which caused participants to pay excessive fees. Plaintiffs also allege that the plan fiduciaries selected expensive, underperforming, duplicative mutual funds, including retail mutual funds instead of less expensive institutional funds.	
2	<i>Sacerdote, et al. v. New York University</i> 1:16-cv-06248 (S.D.N.Y.)  Filed 8/9/2016 by Schlichter, Bogard &				Plaintiffs allege that Defendants breached fiduciary duties with regard to two plans, the Faculty Plan and the NYU Medical Plan, which had a total of \$4.2 billion in assets and 24,164 participants. Specifically, Plaintiffs claim the fiduciaries caused participants to pay excessive fees by including	

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	Denton LLP  Judge Katherine B. Forrest				103 investment options in the Faculty Plan and 84 options in the Medical Plan as of 12/31/14. The fiduciaries also engaged two recordkeepers for the plans without a competitive bidding process, and they selected expensive, underperforming, duplicative mutual funds.	
<b>3</b>	<i>Doe v. Columbia University, et al.</i> , 1:15-cv-06488 (S.D.N.Y.)  Filed 8/16/2016 by Sanford Heisler, LLP  Judge Analisa Torres, referred to Magistrate Judge Ronald L. Ellis				Plaintiff seeks to represent a class of participants in the Retirement Plan for Officers of Columbia University and the Columbia University Voluntary Retirement Savings Plan, which allegedly have more than 27,000 current and former participants and a total of approximately \$4.6 billion in assets. Plaintiff claims the plan fiduciaries selected and retained more than 100 investment options in the plans, many of which carried high fees and performed poorly. The fiduciaries also allegedly engaged two recordkeepers for the plans without a competitive bidding process, which led to high fees.	
<b>4</b>	<i>Cates, et al. v. Trustees of Columbia University, et al.</i> , 1:16-cv-06524 (S.D.N.Y.)  Filed 8/17/2016				The complaint alleges that the two plans at issue, the Retirement Plan for Officers of Columbia University and the Columbia University Retirement Savings Plan, had a total of \$4.6 billion in assets and 27,309 participants. The fiduciaries' selection of 116	

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	by Schlichter, Bogard & Denton LLP  Judge Analisa Torres				investment options in both plans and the use of two recordkeepers without a competitive bidding process allegedly led to the participants' payment of excessive fees. The fiduciaries further allegedly selected expensive, underperforming, duplicative mutual funds, and retail instead of institutional funds that are less expensive.	
5	<i>Cunningham v. Cornell University, et al.</i> 1:16-cv-06525 (S.D.N.Y.)  Filed 8/17/2016 by Schlichter, Bogard & Denton LLP  Judge P. Kevin Castel				The complaint alleges that the two plans at issue, the Retirement Plan and the Tax Deferred Annuity Plan, have \$3.1 billion in assets and 29,452 participants. The plans' fiduciaries allegedly caused the participants to pay excessive fees by selecting 299 investment options in the Retirement Plan and 301 investment options in the Tax Deferred Annuity Plan as of 12/31/14.  The fiduciaries also allegedly engaged two plan recordkeepers without a competitive bidding process, which led to unreasonable and excessive fees for plan administration. Plaintiffs also allege that the fiduciaries selected expensive, underperforming, duplicative mutual funds and retail rather than institutional mutual funds.	

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<b><i>Third Circuit</i></b>						
<b>6</b>	<i>Sweda, et al. v. The University of Pennsylvania, et al.</i> 2:16-cv-04329 (E.D. Pa.)  Filed 8/9/2016 by Schlichter, Bogard & Denton LLP  Judge Gene E.K. Pratter				Plaintiffs allege that the plan at issue has \$3.88 billion in assets and 26,904 participants. They claim the fiduciaries included 78 investment options in the plan as of 12/31/14 and engaged two recordkeepers without any competitive bidding process, leading to excessive fees. Plaintiffs also allege that the plan fiduciaries selected expensive, underperforming, duplicative mutual funds and retail mutual funds.	
<b><i>Fourth Circuit</i></b>						
<b>7</b>	<i>Clark, et al. v. Duke University, et al.</i> 1:16-cv-1044 (M.D.N.C.)  Filed 8/10/2016 by Schlichter, Bogard & Denton LLP  Judge Catherine C. Eagles				The complaint alleges that the plan has \$4.7 billion in assets and 37,939 participants. Plaintiffs claim that the Plan has more than 400 investment options and four recordkeepers and providers, which the fiduciaries did not select in a competitive bidding process, leading to excessive fees. Plaintiffs also allege that the fiduciaries selected expensive, underperforming, duplicative mutual funds, and retail share classes instead of institutional.	
<b>8</b>	<i>Kelly, et al. v.</i>				Plaintiffs allege that the plan at	

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	<p><i>Johns Hopkins University</i> 1:16-cv-02835 (D. Md.)</p> <p>Filed 8/11/2016 by Schlichter, Bogard &amp; Denton LLP</p> <p>Judge George Levi Russell, III</p>				<p>issue has \$4.3 billion in assets and 24,561 participants. Before January 2016, they claim, the fiduciaries included 440 investment options in the plan, causing participants to pay excessive fees. Moreover, they allege, before January 2016, the plan had five recordkeepers, which were selected without a competitive bidding process, and the fiduciaries chose expensive, underperforming, duplicative mutual funds.</p>	
<i>Sixth Circuit</i>						
<b>9</b>	<p><i>Cassell, et al. v. Vanderbilt University, et al.</i> 3:16-cv-02086 (M.D. Tenn.)</p> <p>Filed 8/10/2016 by Schlichter, Bogard &amp; Denton LLP</p> <p>Judge Waverly D. Crenshaw, Jr.</p>				<p>The complaint alleges that two Vanderbilt plans at issue, the Retirement Plan and the New Faculty Plan, had a total of \$3.4 billion in assets and 41,863 participants.</p> <p>Plaintiffs claim that before April 2015, the plan had 340 investment options, which caused the participants to pay excessive fees, as did the engagement of four recordkeepers without a competitive bidding process. The fiduciaries allegedly selected expensive, underperforming, duplicative mutual funds, and retail instead of institutional class mutual funds.</p>	

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<b><i>Seventh Circuit</i></b>						
<b>10</b>	<i>Divane, et al. v. Northwestern University, et al.</i> 1:16-cv-08157 (N.D. Ill.)  Filed 8/17/2016 by Schlichter, Bogard & Denton LLP  Judge Marvin E. Aspen				Plaintiffs allege that the two Northwestern University plans at issue, the Retirement Plan and Voluntary Savings Plan, had \$2.87 billion in assets and 33,915 participants. Plaintiffs claim that the plans' fiduciaries caused participants to pay excessive fees because they included 242 investment options in the Retirement Plan and 187 investment options in the Voluntary Savings Plan as of 12/31/15. The fiduciaries also selected two recordkeepers without a competitive bidding process, causing the participants to pay excessive administration fees. Finally, the fiduciaries allegedly selected expensive, underperforming, duplicative mutual funds and retail instead of institutional funds.	
<b><i>Ninth Circuit</i></b>						
<b>11</b>	<i>Munro, et al. v. University of Southern California, et al.</i> 2:16-cv-06191 (C.D. Cal.)  Filed 8/17/2016				The 403(b) plan at issue allegedly had \$2.19 billion in assets and 28,423 participants as of 12/31/14. Plaintiffs claim that the fiduciaries caused participants to pay excessive fees by including 340 investment options in the plan before overhauling the lineup in	

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	by Schlichter, Bogard & Denton LLP  Judge Virginia A. Phillips				March 2016, and by engaging four recordkeepers without conducting a competitive bidding process. The fiduciaries also allegedly selected expensive, underperforming, duplicative mutual funds, and retail rather than institutional shares of mutual funds.	
<b>Eleventh Circuit</b>						
12	<i>Henderson, et al. v. Emory University, et al.</i> 1:16-cv-02920 (N.D. Ga.)  Filed 8/11/2016 by Schlichter, Bogard & Denton LLP  Judge Charles A. Pannell, Jr.				Plaintiffs allege that the two plans at issue, the Retirement Plan and the Emory Healthcare, Inc. Retirement Savings and Matching Plan, have a total of \$3.66 billion in assets and 51,797 participants. The plan fiduciaries allegedly caused the participants to pay excessive fees by including 111 investment options in the plans, and by engaging three recordkeepers without a competitive bidding process. The fiduciaries also allegedly selected expensive, underperforming, duplicative mutual funds and retail mutual funds.	

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