

What Does the Fox Case Say? No Standing to Assert Fiduciary Breach without Showing of Personal Harm

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The U.S. District Court for the District of Columbia reminds plaintiffs that they may have standing under ERISA for their suit, but they also must have standing to sue under Article III of the U.S. constitution. Article III requires plaintiffs to allege a personal stake in the outcome in order to have standing to sue. The court followed previous cases which have held that multiemployer plan participants do not have Article III standing to sue plan trustees for breach of fiduciary duty unless the financial viability of the plan is at stake. The trustees had failed to collect contributions from the long-delinquent employer, but there was no allegation that those failures adversely affect the plaintiff's benefits under the plan. Although the employees sued on behalf of the Plan, because they could not show that the trustees' failure directly harmed their benefits, there was no injury, and the suit was dismissed for lack of standing. *Fox v. McCormick*, No. 12-1869 (RMC) (D.D.C. Dec. 9, 2013).