NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 09-3906

MARY STALLINGS, Co- Executrix; PATRICIA STALLINGS,
Co-Executrix on behalf of The Estate of Dr. Viola Stallings,
Appellants

v.

IBM CORPORATION; THE BOARD OF BENEFITS AND
PENSIONS of the IBM Disability Retirement and Sickness
and Accident Income and Benefits Plans; R.A. BARNES;
METROPOLITAN LIFE INSURANCE COMPANY; JOHN
DOE(S) 1-15, said names being fictitious and unknown,
jointly, severally, and/or in the alternative

APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
(D.C. Civil No. 08-cv-03121)
District Judge: Honorable Robert B. Kugler

Submitted Under Third Circuit LAR 34.1(a)
November 16, 2010

Before: BARRY, CHAGARES and VANASKIE, Circuit Judges

(Opinion Filed: December 9, 2010)

OPINION

BARRY, Circuit Judge

Appellants, co-executrixes of the estate of Dr. Viola Stallings (collectively "Estate"), appeal the District Court's dismissal of their Employee Retirement Income Security Act ("ERISA") claim for Dr. Stallings' long-term disability benefits, as well as the Court's grant of summary judgment as to the Estate's claims for breach of fiduciary duty and failure to timely provide ERISA plan documents.[1] We will affirm.

I. BACKGROUND

Dr. Stallings worked at IBM from 1976 until 2002. She was injured in a work-related car accident on November 13, 2001, and worked a reduced number of hours until March 13, 2002, when one of her doctors restricted her from all work. On June 20, 2002, however, that doctor "advised her from a physical standpoint she is cleared to return to work at least on a part-time basis." (App. at 69.) Dr. Stallings was laid off by IBM effective June 30, 2002, but IBM paid her full salary and benefits until that date. She sought short-term disability ("STD") benefits[2] during this period and provided various medical reports to IBM, but there is no evidence that, other than a possible two-week

[1] Metropolitan Life Insurance Co. ("MetLife") filed a motion to dismiss. IBM Corp., the Board of Benefits and Pensions of the IBM Disability Retirement and Sickness and Accident Income and Benefits Plans, and R.A. Barnes (collectively "IBM") filed a motion for summary judgment. To simplify matters, the District Court analyzed the Estate's claim for benefits, which was its only claim against MetLife, under the standard for a motion to dismiss. The Court analyzed the other claims under the summary judgment standard.

period in March of 2002, IBM gave her STD benefits before she was laid off.

Dr. Stallings also made a claim for long-term disability ("LTD") benefits from MetLife, which administered IBM's LTD plan. In a letter dated August 27, 2003, MetLife denied her LTD benefits claim because she did not complete the "waiting period" for LTD benefits by being eligible for *STD* benefits for fifty-two weeks or twelve months.[3] (*Id.* at 98. *See also id.* at 152.) MetLife stated that IBM "informed [its] office that [Dr. Stallings] did not receive any [STD] benefits and that [she] retired on June 30, 2002." (*Id.* at 98.)

On April 1, 2005, Dr. Stallings' counsel asked IBM to reconsider her eligibility for STD and LTD benefits. He asked for copies of all IBM policies, plans, and other related documents if the request for benefits was not "immediately granted." (*Id.* at 102-03.) Counsel again requested those documents on April 27, 2005, but IBM did not send them to him until November 9, 2006.[4] On October 10, 2005, in a letter to Dr. Stallings and her "POA," Estate co-executrix Mary Stallings, IBM again denied Dr. Stallings' request for benefits because "there [was] not sufficient objective medical evidence showing proof of disability at the time of [her] separation from IBM." (*Id.* at 114.) IBM informed Dr.

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[2] The parties refer to these benefits as "short-term disability benefits," "STD benefits," "Sickness and Accident benefits," and "S&A benefits." We will refer to them as "STD benefits."

[3] The Estate seeks *only* LTD benefits and, thus, we will address its arguments regarding STD benefits only as they relate to the waiting period for LTD.

[4] Dr. Stallings dismissed her counsel some time during the summer of 2005, and the Estate re-hired him after Dr. Stallings died.

Stallings that this was "the final step in IBM's appeal process." (*Id.*)

Dr. Stallings died in November of 2005 from a brain tumor that was diagnosed after she was laid off by IBM. IBM denied the Estate's requests in 2006 and 2007 to reconsider her eligibility for LTD and STD benefits, and the Estate filed this action on June 23, 2008. The LTD Plan provided that "[n]o legal action may be started more than two years after the time proof [of eligibility] must be given." (*Id.* at 157.)

II. JURISDICTION AND STANDARD OF REVIEW

We have jurisdiction under 28 U.S.C. § 1291, and we exercise plenary review over the District Court's dismissal of the claim for benefits and grant of summary judgment on the Estate's other claims. "[T]o survive a motion to dismiss, a complaint must contain sufficient factual matter, accepted as true, to state a claim to relief that is plausible on its face." *McTernan v. City of York*, 577 F.3d 521, 530 (3d Cir. 2009) (internal quotation marks omitted). Summary judgment shall be granted "if the movant shows that there is no genuine dispute as to any material fact and the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(a).[5] We review for abuse of discretion the Court's ultimate decision to decline to award damages for any failure of IBM to timely provide plan documents in 2005. *Hennessy v. F.D.I.C.*, 58 F.3d 908, 916 (3d Cir. 1995).

III. ANALYSIS

A. Statute of Limitations

[5] This text became effective on December 1, 2010.

The District Court held that the Estate's claims for LTD benefits under 29 U.S.C. § 1132(a)(1)(B) accrued on August 27, 2003, when MetLife first denied Dr. Stallings' claim for LTD benefits. The Court applied the two-year contractual limitations period of the LTD Plan, concluded that the limitations period expired on August 27, 2005, and dismissed the Estate's claim for benefits as untimely. The Estate argues that (1) the August 27, 2003 letter did not trigger the limitations period; (2) a two-year limitations period is too short, both generally and specifically as to Dr. Stallings; and (3) we should apply equitable estoppel to toll the limitations period.

1. Accrual of the Claim for Benefits

The Estate contends that the August 27, 2003 letter did not trigger the limitations period because it did not comply with the applicable requirements for a denial notice under 29 U.S.C. § 1133(1) and 29 C.F.R. § 2560.503-1(g) (the "denial notice regulation"). It claims that the letter did not give Dr. Stallings information necessary to perfect the claim or a statement of her right to bring a civil action, both of which are required by § 2560.503-1(g).[6] (Appellants' Br. at 23.) It primarily relies on *Epright v. Environmental Resources Management, Inc.*, 81 F.3d 335, 342 (3d Cir. 1996), in which we held that the time limit to file an internal administrative appeal from a denial of

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[6] The Estate suggests that there were other deficiencies in the denial notice, but its opening brief clearly limited its appeal to these two issues. The Estate does not explain why defendants' failure to give Dr. Stallings information as to how to perfect her claim

ERISA benefits was not triggered because the denial notice failed to inform the claimant of the steps to administratively appeal that denial, as the denial notice regulation required. *See also Hahnemann Univ. Hosp. v. All Shore, Inc.*, 514 F.3d 300, 307 (3d Cir. 2008) (same). In *Epright*, we relied on a Ninth Circuit case that focused on the possibility that benefit plans could abuse the time limits for internal administrative appeals by giving claimants inadequate notice regarding administrative appeal procedures. *See White v. Jacobs Eng'g Group*, 896 F.2d 344, 351 (9th Cir. 1990), *cited in Epright*, 81 F.3d at 342.

Epright, *Hahnemann University Hospital*, and *White* did not address the question of whether failure to meet the requirements of the denial notice regulation would toll the statute of limitations for filing a civil action in court. In *Miller v. Fortis Benefits Insurance Co.*, 475 F.3d 516, 520 (3d Cir. 2007), however, we foreclosed that possibility when we held that a non-fiduciary cause of action under ERISA "accrues when a claim for benefits has been denied." Miller's claim, which was for miscalculated benefit payments, accrued when he received his first such payment, and we held that "a *formal* denial is not required if there has already been a repudiation of the benefits by the fiduciary which was *clear* and made known [to] the beneficiary." *Id.* at 520-21 (emphasis in original). Adopting the clear repudiation rule in the ERISA context "reflects the underlying goals of statutes of limitations. . . . [These include] rapid resolution of disputes, repose for defendants, and avoidance of litigation involving lost or distorted

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(part of the administrative appeal process) should toll the statute of limitations for filing a evidence." *Id.* at 522 (internal quotation marks omitted). Otherwise, "a plaintiff could . . . trigger the statute of limitations at his own discretion, creating an indefinite limitations period." *Id.* Applying *Miller* to this case, we will affirm the District Court's conclusion that the Estate's claim for benefits under § 1132(a)(1)(B) was untimely because the August 27, 2003 letter clearly repudiated the claim for LTD benefits, even if it was not in full compliance with the denial notice regulation.[7]

2. Reasonableness of the Two-year Contractual Limitations Period

The LTD Plan includes a two-year contractual limitations period, but the Estate contends that this period is unreasonable both generally and as to Dr. Stallings' specific claim for benefits. The Estate implicitly concedes that a three-year limitations period is reasonable and offers no principled reason for us to differentiate between a three-year and two-year limitations period. We conclude that a two-year contractual limitations period for a claim for benefits under § 1132(a)(1)(B) is generally reasonable.

The Estate also posits that it is unreasonable to apply a two-year limitations period in *this* case because by the District Court's calculation, the limitations period ended on

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lawsuit. We need not discuss this issue further.

[7] The District Court recognized that "[t]he right to appeal is significant in the ERISA context" but concluded in a footnote that "the remedy for violation of [the denial notice regulation] is a right to relief under [§ 1132(a)] for failure to provide a reasonable claims procedure." (App. at 12-13.) As support for this conclusion, the Court cited § 2560.503-1(b)(1), which sheds no light on the issue of remedies. Because we will affirm under *Miller*, we will not further address this issue. We also need not address IBM's alternative argument that it is not liable for the LTD benefits because it is not the plan administrator.

August 27, 2005, "in the midst of IBM's April 29th through October 10, 2005 review of additional evidence which it requested as to Dr. Stallings' STD Income claim." (Appellant's Br. at 32.) We easily reject this argument; even if we took the approach *most* favorable to the Estate and decided that there was no clear repudiation of Dr. Stallings' claim to LTD benefits until October 10, 2005, the limitations period would have run on October 10, 2007, well before the Estate filed its complaint.[8] The Estate further maintains that "IBM's lack of timely response [until November 2006] to Dr. Stallings' LTD information request . . . foiled an opportunity to timely file suit by the then substantially incapacitated claimant." (*Id.* at 33.) But the Estate admits that Dr. Stallings received at least one copy of the plan documents in 2003, and we will not toll the statute of limitations because IBM failed to timely respond to subsequent requests. (*See id.* at 40.)

3. Equitable Estoppel

The Estate claims that equitable estoppel bars the defendants from asserting a statute of limitations defense. To establish equitable estoppel, the Estate must show, among other things, "extraordinary circumstances." *Curcio v. John Hancock Mut. Life Ins. Co.*, 33 F.3d 226, 235 (3d Cir. 1994). We have not defined "extraordinary circumstances" but "rely[] instead on case law to establish its parameters." *Kurz v. Phila. Elec. Co.*, 96 F.3d 1544, 1553 (3d Cir. 1996). We have found extraordinary circumstances when there are, for example, "affirmative acts of fraud or similarly inequitable conduct by

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[8] To be clear, we do not endorse this view of accrual and mention it here only to

an employer" or a "network of misrepresentations that arises over an extended course of dealing between parties," as well as when "particular plaintiffs" are vulnerable. *Id.*, *quoted in Pell v. E.I. DuPont de Nemours & Co.*, 539 F.3d 292, 303-04 (3d Cir. 2008) (finding extraordinary circumstances where an employer "made affirmative misrepresentations to [an employee] over an extended period of time" regarding the employee's date of service for pension calculations). The Estate claims that the defendants "committed a series of material omissions," not affirmative misrepresentations. (Appellants' Br. at 34.) Even if omissions could support equitable estoppel, however, the alleged omissions here do not rise to the level of extraordinary circumstances. Although it is undisputed that Dr. Stallings was vulnerable in the fall of 2005, by then she had been represented by counsel for a period of time, and her sister had had power of attorney over her legal affairs for many months. Dr. Stallings' own vulnerability would therefore not support a finding of extraordinary circumstances, and we need not address the parties' other arguments as to equitable estoppel.

B. Request for Equitable Relief under 29 U.S.C. § 1132(a)(3)

The Estate also alleges that IBM breached its fiduciary duties to Dr. Stallings and seeks recovery for purportedly "equitable" relief under 29 U.S.C. § 1132(a)(3). That provision is a "'catchall'" that "act[s] as a safety net, offering appropriate equitable relief for injuries caused by violations that [§ 1132] does not elsewhere adequately remedy."

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illustrate that the Estate's argument would not be successful under any possible approach.

Varity Corp. v. Howe, 516 U.S. 489, 512 (1996). In *Ream v. Frey*, 107 F.3d 147, 152 (3d Cir. 1997), we held that “[w]here Congress otherwise has provided for appropriate relief for the injury suffered by a beneficiary, further equitable relief ought not be provided.”

We agree with the District Court’s dismissal of the Estate’s claims for “equitable” relief because the Estate ultimately seeks LTD benefits – that is, money – which is a legal rather than an equitable remedy. *See Mertens v. Hewitt Assocs.*, 508 U.S. 248, 255 (1993) (“Money damages are, of course, the classic form of *legal* relief.”). The Estate contends that the Court “overlooked the viability of such equitable relief to remove intermediate obstacles to a merits adjudication imposed by IBM’s breaches of fiduciary duty.” (Appellants’ Br. at 40.) But through a “merits adjudication,” the Estate simply seeks payment of benefits, which is not only legal relief but also relief that it could have sought under § 1132(a)(1)(B) had it complied with the limitations period. The Estate has offered no other reason that a “merits adjudication” would benefit the Estate, and we will affirm as to the breach of fiduciary duty claim.

C. Failure to Timely Provide Plan Documents

The District Court also granted summary judgment in favor of IBM on the Estate’s claim for statutory damages under 29 U.S.C. §§ 1024(b)(4) and 1132(c)(1) based on IBM’s failure to timely respond to the April 1, 2005 request for plan documents. The Court did not abuse its discretion in concluding that it would not award the statutory penalty *even if* IBM’s failure to respond to the April 1, 2005 letter violated the statute. We need not, therefore, reach the question of whether the Court erroneously determined that the request did not invoke the statutory protection at all because it was only a "'conditional request.'" (App. at 17.)

IV. CONCLUSION

We will affirm the judgment of the District Court.