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Judge grants summary judgment for Intel in lawsuit over DC plan alternatives

By Robert Steyer

A federal judge in San Jose, Calif., has ruled for Intel Corp., granting summary judgment against claims by a former employee that retirement plan executives violated fiduciary duties by overallocating alternative investments such as hedge funds and private equity funds to investment menus in two defined contribution plans.

U.S. Magistrate Judge Nathanael Cousins, in a March 31 opinion, wrote that the claims by Christopher Sulyma regarding the Intel Corp. 401(k) Savings Plan and the Intel Retirement Contribution Plan "are time-barred under the statute of limitations" for suing under the Employee Retirement Income Security Act.

"The key issue is whether (Mr.) Sulyma had actual knowledge of the underlying facts constituting his claim within three years of his filing his lawsuit," the judge wrote.

The judge wrote that Mr. Sulyma "had actual knowledge of the facts comprising" some claims as well as "knowledge of the disclosureshe alleges were unlawfully inadequate" in other claims. Given those facts, the judge ruled the statute of limitations had expired.

Mr. Sulyma argued he had "little experience with financial issues" and was unfamiliar with hedge funds, private equity funds or other alternatives, according to the judge's ruling. Mr. Sulyma also contended investment information documents provided by Intel were "not easily accessible, and often misleading and inconsistent," the judge's ruling said.

However, the judge noted Mr. Sulyma "admits he never looked at those documents to begin with." The judge ruled Mr. Sulyma had "actual knowledge of the facts underlying his substantive claims" because Intel provided financial disclosure information about asset allocation and the company's investment strategy.

Intel's financial fact sheets from June 2012 demonstrate Mr. Sulyma had "actual knowledge" about information more than three years before he filed suit in October 2015, thus falling outside the statute of limitations, the judge wrote.

The two DC plans had combined assets of $14.9 billion as of Dec. 31, 2015, according to the latest Form 5500 filings with the Department of Labor.

Mr. Sulyma's original complaint said in part: "Beginning in 2011, the investment committee dramatically altered the asset allocation model" for an Intel target-date portfolio by increasing hedge fund investments "from about $50 million to $680 million."

He also alleged the investment committee "increased the diversified fund's exposure to hedge funds and private equity investments during 2009 through 2014 … The diversified fund's investment in hedge funds increased from about $582 million to $1.665 billion (and) the fund's investment in private equity increased from about $83 million to $810 million."

An attorney representing Mr. Sulyma could not be reached by press time.

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