

Jury Delivers Win To Yale With 403(b) Lawsuit Verdict

A jury decided, almost entirely in the university's favor, in the nearly seven-year lawsuit Wednesday.

Reported by [NOAH ZUSS](#)

A Connecticut federal jury delivered a verdict on Wednesday—deciding the class action lawsuit brought in 2016 against the \$5.5 billion retirement plan Yale University 403(b) retirement plan—ruling the school mismanaged the plan but caused no losses to plan participants, [according to the verdict](#).

The jury ruled that the defendants—Yale University; Michel Peel, former vice president of human resources and administration; and the retirement plan fiduciary committee—breached their fiduciary duty of prudence to participants by allowing unreasonable recordkeeping and administrative fees to be charged to participants in the plan, according to [the court filing](#).

However, the jury also found that a fiduciary following a prudent process could have made the same decisions as to recordkeeping and administrative fees as the defendants, [the verdict shows](#). The jury found that the plaintiffs did not prove that the plan suffered any losses or that there were any damages.

On the other three claims before them—regarding investment options, the selection of share classes and the offering of the TIAA traditional annuity—[the jury found](#) that the plaintiffs failed to prove that Yale breached its fiduciary duties.

The [plaintiffs will appeal](#) the decision, says their attorney Jerry Schlichter, founder and managing partner at the law firm Schlichter, Bogard & Denton, via email.

Notably, the jury ruled for the defendants on the alleged fiduciary breach regarding plan investments, explains Drew Oringer, a partner in and general counsel at the Wagner Law Group, which is not involved in the litigation.

“The jury also found that any issues regarding the retention of administrators did not result in damages,” he says.

Federal Judge Alvin W. Thompson in 2022 [granted in part and denied in part](#), defendant Yale University's motion for summary judgement.

Whether the verdict is likely to “embolden other institutions and fiduciaries not to settle and to get to a verdict? That's unclear,” adds Oringer. “The cases are extremely fact-sensitive, as the Supreme Court effectively confirmed in the [\[Hughes v. Northwestern University\]](#) case. And defendants with better facts may decide they want to see if they can get the result that Yale got, while defendants with more difficult facts may be more willing to settle.”

A jury verdict finding for the plaintiffs would likely have clearer effects to claims brought under the Employee Retirement Income Security Act, Oringer adds.

“Putting aside the nuances that may be present in any particular case, it seems clear to me that a verdict against Yale here would have been perceived as a positive for plaintiffs attempting to negotiate settlements with others and might well have made other defendants more circumspect when considering whether not to settle,” he says. “There's a lot of work involved for a plaintiffs' firm to take a case like this all the way through to a verdict, and to have come away with nothing is, to say the least, not the result that the plaintiffs' lawyers wanted.”

The [lawsuit was brought](#) in 2016 before U.S. District Court for the District of Connecticut. The lawsuit is *Vellali et al v. Yale University et al.*

The original complaint had alleged seven counts of fiduciary breach under the Employee Retirement Security Act against Yale University, the retirement plan fiduciary committee and Peel.

The class of plaintiffs is represented in the litigation by attorneys with the law firms of Cohen & Wolf P.C., based in Bridgeport, Connecticut; and Schlichter, Bogard & Denton, LLP, based in St. Louis, Missouri. The defendants are represented by attorneys with Mayer Brown, based in Washington, D.C.

"We will continue our commitment to having a trial in each case where that is the best action for our clients," says Schlichter, by email.

Interested parties in the litigation included Aon Hewitt Investment Consulting Inc. represented by attorney Matthew Freimuth, with law firm Willkie Farr & Gallagher LLP, based in New York City; Vanguard Group Inc. represented by attorney Tracy Salmon-Smith, with law firm Faegre Drinker Biddle & Reath LLP, based in Florham Park, New Jersey; and TIAA, represented by James Glasser, from Wiggin & Dana-NH, based in New Haven, Connecticut.

A Yale University representative did not return a request for comment on the ruling. An attorney for the defendants declined to comment, referring a request to a Yale representative.

Tags

[403\(b\) Litigation](#), [403\(b\) plan](#), [Employee Retirement Income Security Act](#), [Yale University](#)

Reported by

[Noah Zuss](#)