

United States Court of Appeals
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 23-7059

September Term, 2023

FILED ON: APRIL 23, 2024

DARRELL WILCOX AND MICHAEL MCGUIRE, INDIVIDUALLY AND AS REPRESENTATIVES OF A CLASS OF PARTICIPANTS AND BENEFICIARIES IN AND ON BEHALF OF THE GEORGETOWN UNIVERSITY DEFINED CONTRIBUTION RETIREMENT PLAN, THE GEORGETOWN UNIVERSITY VOLUNTARY CONTRIBUTION RETIREMENT PLAN,
APPELLANTS

v.

GEORGETOWN UNIVERSITY, ET AL.,
APPELLEES

Appeal from the United States District Court
for the District of Columbia
(No. 1:18-cv-00422)

Before: CHILDS and GARCIA, *Circuit Judges*, and GINSBURG, *Senior Circuit Judge*

J U D G M E N T

This appeal was presented to the court and briefed and argued by counsel. The Court has accorded the issues full consideration and determined that they do not warrant a published opinion, *see* Fed. R. App. P. 36; D.C. Cir. R. 36(d), and it is now

ORDERED AND ADJUDGED that the district court's order, filed on March 31, 2023, be affirmed. The district court correctly denied appellants' motion for leave to amend their complaint. 2023 WL 2734224. First, we agree with the district court that appellants lack standing to bring two of their claims (challenging the inclusion of certain share classes of Vanguard mutual funds in Georgetown University's two retirement plans and the withdrawal restrictions on the Teachers Insurance Annuity Association Traditional Annuity in one of the plans) because they do not allege injury-in-fact. Second, with regard to appellants' remaining claims (record keeping, imprudent management and duty of candor), the district court correctly held that the original complaint failed to adequately plead any claims, and that the proposed amended complaint would be futile because it did not cure any of the earlier-identified deficiencies. *See generally, Hughes v. Northwestern Univ.*, 142 S. Ct. 737, 742 (instructing courts to apply the plausible pleading standards discussed in *Iqbal* and *Twombly* in evaluating ERISA claims).

Pursuant to D.C. Circuit Rule 36, this disposition will not be published. The Clerk is directed to withhold issuance of the mandate herein until seven days after resolution of any timely petition for rehearing or petition for rehearing *en banc*. See Fed. R. App. P. 41(b); D.C. Cir. R. 41.

Per Curiam

FOR THE COURT:
Mark J. Langer, Clerk

BY: /s/
Daniel J. Reidy
Deputy Clerk