

401(k) lawsuit over Vanguard fees ends with \$23.7 million settlement

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The employee lawsuit against Anthem Inc. surprised advisers because Vanguard is widely seen as a low-cost provider

By Greg Iacurci | April 10, 2019 - 3:01 pm EST

Health insurer Anthem Inc., [sued by employees](#) who claimed its 401(k) retirement plan had excessive fees even though its provider was the Vanguard Group, has settled the case for \$23.7 million.

The lawsuit was originally filed in December 2015 by Jerome Schlichter, the attorney representing plaintiffs who [brought the original tranche](#) of excessive-fee lawsuits against 401(k) plan sponsors more than a decade ago.

Anthem's \$7 billion 401(k) plan had 11 Vanguard mutual funds and a suite of Vanguard target-date collective investment trust

funds, in addition to an Anthem common stock fund and two non-Vanguard mutual funds.

In addition to paying too much for record-keeping services, plaintiffs alleged plan participants paid "far higher" investment fees than they should have since there were lower-cost share classes and investment vehicles available for the funds.

The lawsuit surprised advisers since Vanguard is widely seen as a low-cost fund provider.

Anthem, which denied the allegations, settled for \$23.65 million, according to a court document filed Monday in the U.S. District Court for the Southern District of Indiana. The plan sponsor will also have to hire an investment consultant to review the plan's investment lineup, and conduct a record-keeper search to determine whether to keep Vanguard.

An Anthem spokeswoman declined comment on the settlement.

"We're pleased that Anthem employees and retirees will receive not only compensation for their past losses, but also will have an improved plan going forward to enable them to build their retirement assets," said Mr. Schlichter, a founder and managing partner of Schlichter Bogard & Denton.

Mr. Schlichter won a \$55 million settlement in the lawsuit Tussey v. ABB, which dates to 2006, at the end of March. His largest settlement was in 2015, for \$62 million, in a case against Lockheed Martin Corp.

401(k) fee cases have proliferated over the past decade, and expanded to cover financial services firms as well as nonprofit employers sponsoring 403(b) plans.

The case is titled Bell v. Pension Committee of ATH Holding Co. LLC.

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