

Voya sued by participant in \$2.8 million plan for excessive 401(k) fees

The plaintiff claims Voya potentially earns more than \$1 billion per year in "excessive compensation" on fees for serving nearly 50,000 record-keeping clients.



September 12, 2017 *By Greg Iacurci*

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Voya Financial has been sued by a participant in a roughly \$3 million 401(k) plan for charging allegedly excessive fees for record keeping and adding to an emerging trend of retirement-plan-fee lawsuits materializing among small plans.

Plaintiff Sharon Goetz is seeking the "return of undisclosed excessive and unreasonable asset-based fees" for its services to the \$2.8 million Sharing Plan, and "to prevent Voya from charging those excessive fees in the future," according to a lawsuit filed Sept. 8 in Delaware district court.

Ms. Goetz is seeking class-action status, to represent other defined contribution plans that contract with Voya and its wholly owned subsidiary Insurance and Annuity Co., for record-keeping services.

Voya is **one of the largest** record keepers of DC plans. It provides services to around 47,000 DC plans, with 4.6 million participants and more assets, according to data from *InvestmentNews*' sister publication *Pensions & Investments*.

The plaintiff claims Voya potentially earned more than \$1 billion per year in "excessive compensation" on fees the company charged its DC plan participants. "Voya denies the plaintiff's claims and we plan to vigorously defend this matter," spokesman Joseph Loparco said. "Other than that, we do not have any litigation."

Lawsuits alleging excessive 401(k) fees for investment-management and record-keeping services aren't new — their prevalence has increased in the last decade. However, those focused on small retirement plans — the market the majority of 401(k) advisers operate in — are fairly new, and showing a growing trend.

A participant in a \$1.1 million 401(k) plan **filed a lawsuit** in June against Nationwide for allegedly excessive record-keeping and administrative fees.

LaMettry's Collision Inc., an employer sponsoring a \$9 million 401(k) **was sued** in May 2016 for breaching its fiduciary duties, as were fiduciaries in a **plan** in July last year.

The Voya lawsuit — Goetz v. Voya Financial, Inc. et al — alleges the Cornerstone plan paid roughly \$30,790 for record-keeping services in 2014 per participant; fees increased to \$34,568 in 2015, or \$1,819 per participant, according to the suit.

Comparing those fees to a survey conducted by consulting firm NEPC, which found median record-keeping fees to be \$64 per plan participant, the plaintiff claims Voya's fees were 36 times more than what would be considered reasonable.

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