

United States Court of Appeals
For the Eighth Circuit

No. 23-2765

Barbara Kellum; Christopher Bradley; I.B., a minor, by and through legal guardian, Cynthia Simpson; S.B., a minor, by and through Mother and Next Friend, Brittney Britt, as Beneficiaries of Decedent, Mychal Byrd; Jada T. Byrd,

Plaintiffs - Appellants,

v.

Gilster-Mary Lee Corporation Group Health Benefit Plan,

Defendant - Appellee.

Appeal from United States District Court
for the Eastern District of Missouri - Cape Girardeau

Submitted: June 13, 2024

Filed: August 26, 2024

Before COLLOTON, Chief Judge, MELLOY and GRUENDER, Circuit Judges.

COLLOTON, Chief Judge.

Mychal Byrd was a covered person under the Gilster-Mary Lee Corporation Group Health Benefit Plan, a self-funded benefit plan that is subject to the Employee Retirement Income Security Act of 1974 (ERISA). In 2018, the Plan covered Byrd's

medical expenses after he was injured in an automobile accident with an unknown motorist. When Byrd died from his injuries, his mother and children sued Byrd's automobile insurance provider in state court to collect the proceeds of his uninsured-motorist coverage. The Plan intervened, removed the case to federal court, and asserted an equitable right to the insurance proceeds. The district court granted summary judgment for the Plan, and the plaintiffs appeal. Because we conclude that the district court lacked subject-matter jurisdiction, we vacate the judgment.

I.

In 2018, Byrd was driving northbound on Interstate 55 in Cape Girardeau, Missouri, when an unknown motorist ran him off of the road. Byrd swerved and crashed into an embankment. He sustained serious injuries and was hospitalized until his death approximately one month later. The Plan covered \$474,218.24 of Byrd's medical expenses.

At the time of the accident, Byrd had an automobile insurance policy with Nationwide Insurance Company. The policy provided \$50,000 in uninsured-motorist coverage. After Byrd's death, the Plan's administrator, HealthSCOPE Benefits, demanded that Nationwide tender the insurance proceeds to the Plan pursuant to a provision in Byrd's plan document. The provision stated, in relevant part, that by "accept[ing] . . . the Plan's conditional payment of medical benefits," a "Plan Participant(s) agrees the Plan shall have an equitable lien on any funds received by the Plan Participant(s) . . . from any source and said funds shall be held in trust until such time as the obligations under this provision are fully satisfied."

Byrd's family also sought the insurance proceeds. His mother, Barbara Kellum, along with Byrd's children, commenced a "friendly" suit against Nationwide in Missouri state court. The plaintiffs filed a Petition for Approval of Wrongful Death Settlement, which stated:

Plaintiffs have made a claim against Nationwide Insurance Company of America for the wrongful death of Mychal Byrd, and in order to resolve the issues between the parties, Plaintiffs and Defendant Nationwide Insurance Company of America have agreed to settle the Plaintiffs' claims against Nationwide Insurance Company of America for the total sum of Fifty Thousand Dollars (\$50,000.00) subject to the approval of this Court, to be paid as follows:

- a. The court to determine the amount that Healthscope Benefits is entitled to pursuant to their lien. (*See* Exhibit B [Letters from HealthSCOPE Benefits])
- b. That the remaining balance be split five ways between Mychal Byrd's heirs, with Barbara Kellum to take Jada Byrd's share.

The Plan moved to intervene, and the state court granted the motion.

The Plan removed the case to federal court. In its notice of removal, the Plan acknowledged that “[t]he face of Plaintiffs’ petition makes no reference to federal law or ERISA,” but invoked “the doctrine of complete preemption” to establish subject-matter jurisdiction. The plaintiffs did not challenge the removal or contest the court’s jurisdiction to hear the case.

The Plan counter-claimed against the plaintiffs and cross-claimed against Nationwide, asserting an equitable right to the settlement fund under ERISA. *See* 29 U.S.C. § 1132(a)(3). The Plan moved for summary judgment. The plaintiffs, then proceeding *pro se*, failed to respond to the motion. The district court granted summary judgment for the Plan because it determined that the Plan was entitled to the funds under the plan document. Kellum obtained counsel and moved for reconsideration. The court denied the motion, and the plaintiffs appeal.

Although no party raised the issue of subject-matter jurisdiction, this court has an “independent obligation” to “raise and decide jurisdictional questions that the parties either overlook or elect not to press.” *Henderson ex rel. Henderson v. Shinseki*, 562 U.S. 428, 434 (2011). Accordingly, we requested supplemental briefing on whether the federal courts have jurisdiction over this action.

II.

A defendant may remove a civil action from state court to federal court when the action originally could have been brought in a federal district court. 28 U.S.C. § 1441(a). The party seeking removal has the burden to establish federal subject-matter jurisdiction. *See Cent. Iowa Power Coop. v. Midwest Indep. Transmission Sys. Operator, Inc.*, 561 F.3d 904, 912 (8th Cir. 2009). A defendant may not rely on its own claims to establish jurisdiction under § 1441(a). *Home Depot U.S.A., Inc. v. Jackson*, 587 U.S. 435, 442 (2019).

In its notice of removal, the Plan invoked the district court’s federal question jurisdiction. *See* 28 U.S.C. § 1331. Under § 1331, the federal courts have original jurisdiction over civil actions arising under the Constitution, laws, or treaties of the United States. A case arises under federal law “[m]ost directly . . . when federal law creates the cause of action asserted.” *Gunn v. Minton*, 568 U.S. 251, 257 (2013). Typically, “federal-question jurisdiction is governed by the ‘well-pleaded complaint rule,’ which provides that federal jurisdiction exists only when a federal question is presented on the face of the plaintiff’s properly pleaded complaint.” *Caterpillar Inc. v. Williams*, 482 U.S. 386, 392 (1987).

Complete preemption is a narrow exception to the well-pleaded complaint rule. “Once an area of state law has been completely pre-empted, any claim purportedly based on that pre-empted state law is considered, from its inception, a federal claim, and therefore arises under federal law.” *Id.* at 393. ERISA is one of few federal

statutes with this “extraordinary pre-emptive power” that “converts an ordinary state common law complaint into one stating a federal claim for purposes of the well-pleaded complaint rule.” *Metro. Life Ins. Co. v. Taylor*, 481 U.S. 58, 65 (1987).

But the mere mention of an ERISA plan—or even the “need to consider the contents” of a plan document—is insufficient by itself to establish complete preemption. *Qassis ex rel. K.B. v. Methodist Healthcare - Memphis Hosps.*, 929 F.3d 795, 802 (6th Cir. 2019); *see Ervast v. Flexible Prods. Co.*, 346 F.3d 1007, 1014 (11th Cir. 2003). For complete preemption to apply, the plaintiff’s claim must be “within the scope of the civil enforcement provisions of § 502(a)” of ERISA. *Metro. Life Ins.*, 481 U.S. at 66; *see Lyons v. Philip Morris Inc.*, 225 F.3d 909, 912 (8th Cir. 2000). A plaintiff’s claim is within the scope of § 502(a) when (1) the plaintiff “could have brought his claim under ERISA”; and (2) “there is no other independent legal duty that is implicated by a defendant’s actions.” *Aetna Health Inc. v. Davila*, 542 U.S. 200, 210 (2004); *see Prudential Ins. Co. of Am. v. Nat’l Park Med. Ctr., Inc.*, 413 F.3d 897, 914 (8th Cir. 2005).

The Plan advances two arguments in support of subject-matter jurisdiction. First, the Plan argues that the plaintiffs’ petition states a federal cause of action because it asked the state court to “determine the amount that Healthscope Benefits is entitled to pursuant to their lien.” Second, the Plan argues that even if the face of the plaintiffs’ petition does not present a federal question, ERISA completely preempts their claim. Both arguments rest on the Plan’s assertion that the plaintiffs’ claim is within the scope of ERISA’s civil-enforcement mechanisms.

To determine whether federal jurisdiction is proper, therefore, we consider whether the plaintiffs could have brought their claim under ERISA. *See Davila*, 542 U.S. at 210; *Prudential Ins. Co.*, 413 F.3d at 914. In this context, that condition has two elements: first, that the plaintiff is the type of party who can bring a claim under § 502(a)(1)(B), and second, that the claim asserted can be construed as a colorable

claim for benefits under § 502(a)(1)(B). *Montefiore Med. Ctr. v. Teamsters Loc. 272*, 642 F.3d 321, 328 (2d Cir. 2011).

Federal jurisdiction in this case founders on the first element. None of the plaintiffs is the type of party who can bring a claim under § 502(a)(1)(B) of ERISA. Section 502 creates a cause of action to recover benefits for plan participants and plan beneficiaries only. 29 U.S.C. § 1132(a)(1)(B). The plaintiffs assert that they were not plan beneficiaries, and the Plan does not argue to the contrary. ERISA defines a beneficiary as “a person designated by a participant, or by the terms of an employee benefit plan, who is or may become entitled to a benefit thereunder.” *Id.* § 1002(8). The Plan has offered no evidence that the plaintiffs were designated by Byrd or Byrd’s personal representative, or that they could become entitled to a benefit under Byrd’s plan document. We find nothing in the record that would give the plaintiffs the status of plan beneficiaries. They are also not plan participants. Claims to recover benefits “by anyone other than a ‘participant or beneficiary’ . . . fall outside the scope of ERISA’s civil enforcement section.” *Alexander v. Elec. Data Sys. Corp.*, 13 F.3d 940, 946 (6th Cir. 1994); *see Marin Gen. Hosp. v. Modesto & Empire Traction Co.*, 581 F.3d 941, 948 (9th Cir. 2009).

For these reasons, the plaintiffs could not have sued under ERISA, and their claim does not fall within the scope of ERISA’s civil-enforcement provisions. The Plan thus failed to establish that the claim in the state court petition was completely preempted by ERISA. The district court lacked subject-matter jurisdiction over the case at the time of removal. We therefore vacate the judgment and remand the case to the district court with instructions to return the case to Missouri state court.