

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT**

United States Court of Appeals
Fifth Circuit

FILED

August 7, 2014

Lyle W. Cayce
Clerk

No. 12-10416

RANDY KOPP, Individually and on Behalf of All Others Similarly Situated,

Plaintiff-Appellant

v.

SCOTT W. KLEIN; DONALD B. REED; STEPHEN L. ROBERTSON;
THOMAS S. ROGERS; PAUL E. WEAVER; JOHN J. MUELLER; JERRY V.
ELLIOT; SAMUEL D. JONES; KATHERINE J. HARLESS; THE
EMPLOYEE BENEFITS COMMITTEE; GEORGIA SCAIFE; JOHN DOES 1-
20; WILLIAM GIST; STEVEN GABERICH; CLIFFORD WILSON; BILLY
MUNDY; ANDREW COTICCHIO; THE HUMAN RESOURCES
COMMITTEE; FRANK P. GATTO,

Defendants-Appellees

Appeal from the United States District Court
for the Northern District of Texas

ON REMAND FROM
THE SUPREME COURT OF THE UNITED STATES

Before JOLLY, GARZA, and OWEN, Circuit Judges.

PER CURIAM:

Randy Kopp, an employee of Idearc, Inc., and a participant in the Idearc Management Plan (“the Plan”), brought this Employee Retirement Security Act (“ERISA”) action on behalf of all current and former participants in the Plan for whose individual accounts the Plan purchased or held shares of the Idearc Stock Fund from November 21, 2006 through March 31, 2009. The

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district court dismissed Kopp's complaint under Rule 12(b)(6). *Fulmer v. Klein*, No. 3:09-CV-2354-N, 2012 WL 7634148 (N.D. Tex. Mar. 15, 2012). In an earlier opinion, we affirmed. *Kopp v. Klein*, 722 F.3d 327 (5th Cir. 2013). The Supreme Court granted a writ of certiorari, vacated our judgment, and remanded the case "for further consideration in light of *Fifth Third Bancorp v. Dudenhoeffer*, 573 U.S. ___ (2014)."

We VACATE the judgment of the Northern District of Texas, and REMAND for proceedings consistent with the Supreme Court's opinion.¹

¹ Plaintiff-Appellant's motion to remand and Defendants-Appellees' cross-motion for supplemental briefing are denied as moot.