

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 11-CV-10405-RGS

ANTHONY CARONIA

v.

VITALMED, INC.

MEMORANDUM AND ORDER ON PARTIAL MOTION TO DISMISS

April 5, 2011

STEARNS, D.J.

Plaintiff Anthony Caronia formerly worked for defendant VitalMed, Inc. (VitalMed) in its sales and customer services department. Caronia brought this suit against VitalMed alleging various state-law claims, including breach of contract, breach of the covenant of good faith and fair dealing, retaliatory termination, violation of the Massachusetts Wage Act, and conversion. On March 16, 2011, VitalMed moved to dismiss Count V (conversion) of Caronia's Complaint for failure to state a claim under Fed. R. Civ. P. 12(b)(6). VitalMed argues that Count V is preempted by the Employee Retirement Income Security Act (ERISA), 29 U.S.C. § 1001, et seq. Caronia has not opposed the motion.

Section 514(a) of ERISA, 29 U.S.C. § 1144(a), preempts any and all state claims "related to" an employee benefit plan (except state laws that "regulate insurance." 29

U.S.C. § 1144(b)(2)(A)). A law “relates to” an ERISA plan if it (1) has a connection with or (2) a reference to such a plan. *Cal. Div. of Labor Standards Enforcement v. Dillingham Constr.*, 519 U.S. 316, 324 (1997). “Congress painted with a broad brush when it added an express preemption clause to the ERISA canvas ‘State statutes which expressly grant preferential benefits to ERISA plans cannot withstand the preemptive force of ERISA § 514(a).’” *Williams v. Ashland Eng’g Co.*, 45 F.3d 588, 591 (1st Cir. 1995) (*abrogated on other grounds by Carpenters Local Union No. 26 v. U.S. Fid. & Guar. Co.*, 215 F.3d 136 (1st Cir. 2000)). The court agrees with VitalMed that it is clear from the face of the Complaint that Caronia’s claim for conversion directly relates to the distribution of funds under its ERISA-governed profit sharing plan; therefore, Count V is preempted by ERISA. VitalMed’s motion to dismiss Count V for failure to state a claim is ALLOWED.

SO ORDERED.

/s/ Richard G. Stearns

UNITED STATES DISTRICT JUDGE