

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Adetayo Adedipe et al.,

Plaintiffs,

v.

No. 13-cv-2687 (JNE/JJK)

ORDER

U.S. Bank, National Association et al.,

Defendants.

Shelly Abrams et al.,

Plaintiffs,

v.

No. 13-cv-2944 (JNE/JJK)

ORDER

U.S. Bank, National Association et al.,

Defendants.

These two putative class actions were filed within one month of each other in the fall of 2013 by participants in U.S. Bancorp's pension plan (hereinafter, the "Plan"). In the two Complaints, the participants alleged that the Plan fiduciaries' policies and practices for investing the Plan's assets violated the Employee Retirement Income Security Act ("ERISA") and caused the Plan to suffer large losses.

Defendant Nuveen Asset Management LLC and the rest of the Defendants – collectively referred to as the "U.S. Bank Defendants" – each filed a motion to dismiss in both the *Adedipe* and *Abrams* cases. No. 13-cv-2687, ECF Nos. 60, 68; No. 13-cv-2944, ECF Nos. 61, 67. While those motions were pending, the two cases were consolidated and the named plaintiffs and co-counsel from *Adedipe* were appointed as interim lead plaintiffs and co-lead counsel, respectively.

Order of March 4, 2014, ECF No. 88. Those Plaintiffs subsequently filed a Consolidated Amended Complaint in *Adedipe*, No. 13-cv-2687, ECF No. 92, which “supersedes” the two original Complaints and renders them “without legal effect.” *In re Atlas Van Lines, Inc.*, 209 F.3d 1064, 1067 (8th Cir. 2000).

Since the Plaintiffs filed their Consolidated Amended Complaint, the Defendants have filed new motions targeting that new pleading. Currently pending before the Court are Defendant Nuveen’s motion to dismiss, No. 13-cv-2687, ECF No. 96, and the U.S. Bank Defendants’ motion to dismiss or for partial summary judgment, No. 13-cv-2687, ECF No. 102. Also before the Court is the Plaintiffs’ motion for relief under Federal Rule of Civil Procedure 56(d), 13-cv-2687, ECF No. 113.

As the Defendants have not withdrawn the motions to dismiss directed at the original Complaints in *Adedipe* and *Abrams*, they are now denied as moot.

Based on the files, records, and proceedings herein, and for the reasons stated above, IT IS ORDERED THAT:

1. Defendant Nuveen’s Motion to Dismiss the Complaint in *Abrams* [No. 13-cv-2944, ECF No. 61] is DENIED AS MOOT.
2. U.S. Bank Defendants’ Motion to Dismiss the Complaint in *Abrams* [No. 13-cv-2944, ECF No. 67] is DENIED AS MOOT.
3. Defendant Nuveen’s Motion to Dismiss the Complaint in *Adedipe* [No. 13-cv-2687, ECF No. 60] is DENIED AS MOOT.

4. U.S. Bank Defendants' Motion to Dismiss the Complaint in *Adedipe* [No. 13-cv-2687, ECF No. 68] is DENIED AS MOOT.

Dated: September 18, 2014

s/Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge