MISSOURI COURT OF APPEALS
WESTERN DISTRICT

MARY PIERCE,

Respondent-Appellant,

v.

MO-KAN SHEET METAL WORKERS WELFARE FUND,

Appellant-Respondent.

DOCKET NUMBER WD83234 Consolidated with WD83259

Date: November 10, 2020

Appeal from:

Cass County Circuit Court
The Honorable William B. Collins, Judge

Appellate Judges:

Division Two: Lisa White Hardwick, Presiding Judge, Thomas H. Newton and Karen King Mitchell, Judges

---

Attorneys:
Daniel O. Herrington, Garrett W. Hunkins, Marsha R. Woodward and Brian H. Dunn, KCMO for Appellant-Respondent.
Stephen G. Sanders, KCMO for respondent-appellant.

MISSOURI APPELLATE COURT OPINION SUMMARY

MISSOURI COURT OF APPEALS
WESTERN DISTRICT

MARY PIERCE, Respondent-Appellant,
v.
MO-KAN SHEET METAL WORKERS WELFARE FUND, Appellant-Respondent.

WD83234 (Consolidated with WD83259) Cass County

Before Division Two Judges: Lisa White Hardwick, Presiding Judge, Thomas H. Newton and Karen King Mitchell, Judges

Mo-Kan, an ERISA benefit plan administrator, appeals from the circuit court's judgment declaring that Mo-Kan has no right to reimbursement from the civil judgment of a beneficiary, Mary Pierce. Mo-Kan contends that the court erroneously applied the law by declaring that Mo-Kan's Summary Plan Description was not an enforceable Plan Document and that Missouri law applied over federal law. Pierce cross-appeals, contending that the court abused its discretion in declining to impose civil penalties and attorney's fees against Mo-Kan under 29 U.S.C. § 1132(c)(1) and (g)(1), and 29 C.F.R. § 2575.502c-1.

AFFIRMED IN PART, REVERSED IN PART, AND REMANDED FOR FURTHER PROCEEDINGS.

Division Two Holds:

(1) The circuit court erred in finding that Mo-Kan had no right to subrogate against a personal injury judgment. Mo-Kan's Summary Plan Description properly served as the Plan Document, which contained the enforceable terms of the plan and expressly allowed for subrogation. The plan further dictated that Missouri law would apply only when ERISA and federal law did not. Because ERISA allows a party to seek "appropriate equitable relief" as determined by the terms of the plan, ERISA controlled and Mo-Kan had a right to seek subrogation. The judgment is reversed and remanded on this point.

(2) The circuit court did not err in declining to award civil penalties and attorney's fees under 29 U.S.C. § 1132(c)(1) and (g)(1), and 29 C.F.R. § 2575.502c-1. The record indicates that the court considered the relevant factors and properly

exercised its discretion to deny penalties and fees as permitted by the regulatory provisions. The judgment is affirmed on this point.

Opinion by: Lisa White Hardwick, Judge November 10, 2020

THIS SUMMARY IS UNOFFICIAL AND SHOULD NOT BE QUOTED OR CITED.