

FEB 23 2015

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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

JAMES LEBLANC, an individual; PEAR
POINT PROJECT, LLC, a Washington
limited liability company,

Plaintiffs/counter-defendants

- Appellants,

v.

MOTION PICTURE INDUSTRY
HEALTH PLAN, a Trust; MOTION
PICTURE INDUSTRY PENSION PLAN,
a Trust,

Defendants/counter-claimants

- Appellees.

No. 13-55291

D.C. No. 2:11-cv-04181-GAF-E

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Gary A. Feess, District Judge, Presiding

Argued and Submitted February 11, 2015
Pasadena, California

* This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

Before: GRABER and WARDLAW, Circuit Judges, and MAHAN,** District Judge.

Plaintiffs James LeBlanc, a cinematographer, and Pear Point Project, LLC, appeal the district court's summary judgment in favor of Defendants Motion Picture Industry Health Plan and Motion Picture Industry Pension Plan, which are ERISA plans, and the court's denial of Plaintiffs' motion for attorney fees. We affirm.

1. Defendants did consider the non-contemporaneous documents that Plaintiffs offered in support of the claim that Pear Point actually employed at least one other person for the required periods of time. But Defendants gave specific and legitimate reasons for rejecting the adequacy of those documents to demonstrate the requisite employment and hours. Therefore, Defendants did not abuse their discretion. See Anderson v. Suburban Teamsters of N. Ill. Pension Fund Bd. of Trs., 588 F.3d 641, 646 (9th Cir. 2009) (stating our standard of review); Salomaa v. Honda Long Term Disability Plan, 642 F.3d 666, 676 (9th Cir. 2011) (defining abuse of discretion).

2. Plaintiffs received a "full and fair" review as required by 29 U.S.C. § 1133(2). The record does not support Plaintiffs' assertion that Defendants had a

** The Honorable James C. Mahan, United States District Judge for the District of Nevada, sitting by designation.

blanket policy of rejecting all non-contemporaneous records, or all records other than payroll records, as insufficient. And, as noted, Defendants in fact considered Plaintiffs' documentation; a full and fair review does not require a plan administrator to accept as sufficient any particular document.

3. The district court did not abuse its discretion by denying Plaintiffs' motion for attorney fees. See St. John's Organic Farm v. Gem Cnty. Mosquito Abatement Dist., 574 F.3d 1054, 1058 (9th Cir. 2009) (stating our standard of review).

AFFIRMED.