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U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

LY NGUYEN,

Plaintiff-Appellant,

v.

RTS PACKAGING LLC
CONSOLIDATED PENSION PLAN;
RTS PACKAGING, LLC,

Defendants-Appellees.

No. 14-55688

D.C. No. 8:13-cv-00803-CJC-E

MEMORANDUM*

Appeal from the United States District Court
for the Central District of California
Cormac J. Carney, District Judge, Presiding

Submitted November 16, 2016**

Before: LEAVY, BERZON, and MURGUIA, Circuit Judges.

Ly Nguyen appeals from the district court’s summary judgment in her action alleging that defendants RTS Packaging LLC Consolidated Pension Plan (the “Plan”) and RTS Packaging, LLC, violated the Employment Retirement Income

* This disposition is not appropriate for publication and is not precedent except as provided by Ninth Circuit Rule 36-3.

** The panel unanimously concludes this case is suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

Security Act of 1974 (“ERISA”) by denying her claim for surviving spouse benefits. We have jurisdiction under 28 U.S.C. § 1291. We review de novo. *Tremain v. Bell Indus., Inc.*, 196 F.3d 970, 975 (9th Cir. 1999). We affirm.

The district court properly granted summary judgment on Nguyen’s claim that the Plan’s duration-of-relationship requirement for survivor benefits was discriminatory because Nguyen failed to raise a genuine dispute of material fact as to whether defendants were state actors. *See Lugar v. Edmonson Oil Co.*, 457 U.S. 922, 923-24 (1982) (Fourteenth Amendment only applies to state action); *George v. Pac.-CSC Work Furlough*, 91 F.3d 1227, 1229 (9th Cir. 1996) (per curiam) (actions against private parties for violation of constitutional rights require a showing that the private parties’ conduct constituted state action).

AFFIRMED.