

Erin Weber Discusses Employee Benefits Case to Watch with Law360

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Winston & Strawn partner Erin Weber spoke with Law360 about a case in which the Eleventh Circuit will hear Home Depot workers' bid to revive their 401(k) lawsuit. A class of approximately 300,000 401(k) plan participants sued Home Depot, alleging that its plan lost millions due to poor management. In September 2022, U.S. District Judge Steven D. Grimberg granted summary judgment to Home Depot, finding that the class failed to show that the alleged mismanagement resulted in losses to the plan. On appeal, the class argues that the district court erred because it was Home Depot's burden to prove that the fiduciary breaches did not result in losses to the plan.

Erin said she's keeping a close eye on the case because it asks the Eleventh Circuit to decide whether the burden shifts to plan fiduciaries when proving loss causation: "It's really a critical issue," she said.

"At the end of the day, do the plaintiffs have to prove that the fiduciaries' conduct caused the damages? Or do the fiduciaries have to prove that their conduct did not cause the damages?" Erin said.

She noted that if the Eleventh Circuit rules in favor of the plaintiffs on the burden-shifting issue, "that would really, significantly expand fiduciary liability" because plaintiffs would no longer have to prove loss causation.

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