



Erin Weber Discusses Fourth Circuit ERISA Class Certification Ruling with Law360

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Winston & Strawn partner Erin Weber was quoted in a Law360 article examining a significant Fourth Circuit decision vacating class certification in a case challenging Genworth Financial Inc.'s inclusion of target-date fund investments. The ruling may make it tougher to certify similar class actions.

The ruling vacated certification of a class of more than 4,000 current and former 401(K) plan participants who alleged that Genworth violated the Employee Retirement Income Security Act by offering and retaining a suite of underperforming BlackRock Inc. target-date fund investments. The court held that certification of a mandatory, no-opt-out class under Rule 23(b)(1) of the Federal Rules of Civil Procedure was inappropriate because of the varying experience of plan participants invested in the BlackRock funds. The panel said target-date fund investors' differing experiences undermined the commonality needed for certification under Rule 23(b)(1).

Erin told Law360 that she expects the decision's application could vary depending on the specific claims involved. But overall, she added, courts seem to be leaning toward picking up on differences between the situations of proposed class members in ERISA suits.

"You just see more and more courts trending towards an acknowledgment that these claims are much more individualized than the plaintiff's attorneys would like to portray them," she said.

[Read the full article.](#)

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