

CLIENT ALERT

The Fourth Circuit Slams the Door on Mandatory ERISA Classes in Defined Contribution Plan Litigation

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Introduction

The Fourth Circuit recently handed ERISA¹ plan fiduciaries a significant victory, unanimously reversing the certification of a mandatory class in a breach of fiduciary duty lawsuit challenging the management of a defined contribution retirement plan. The decision, *Trauernicht v. Genworth Financial Inc.*,² narrows the available avenues for class certification in the Fourth Circuit where plaintiffs allege ERISA fiduciary breaches in administering such plans. *Trauernicht* complicates the ability to certify ERISA class actions in the Fourth Circuit and could reshape the class certification landscape for the constant wave of ERISA fiduciary breach lawsuits filed throughout the country.

¹ The Employee Retirement Income Security Act of 1974, as amended.

² No. 24-1880, 2026 WL 667917 (4th Cir. Mar. 10, 2026).

ERISA and Class Certification

ERISA imposes fiduciary duties on plan sponsors; a plan fiduciary who breaches those duties is “liable to make good to such plan any losses to the plan” resulting from the breach.³

Federal Rule of Civil Procedure 23 governs class certification. Rule 23(a) outlines prerequisites for plaintiffs to pursue a class action, including commonality.⁴ The Supreme Court has held that establishing commonality under Rule 23(a)(2) requires plaintiffs to “demonstrate that the class members have suffered the same injury.”⁵

If the Rule 23(a) prerequisites are satisfied, a class action can proceed under Rule 23(b)(1), Rule 23(b)(2), or Rule 23(b)(3).⁶ Class members’ participation is mandatory under Rule 23(b)(1) and Rule 23(b)(2) but not under Rule 23(b)(3). The Supreme Court has clarified that individualized monetary claims should proceed under Rule 23(b)(3).⁷

The *Trauernicht* Lawsuit

Plaintiffs Peter Trauernicht and Zachary Wright are former employees of Genworth Financial, Inc. (“Genworth”) who participated in its 401(k) plan. The plan offered a variety of investment options and target-date funds (“TDFs”), including the BlackRock LifePath Index Funds. As a defined contribution plan, Genworth’s 401(k) plan provides participants retirement income based on the value and market performance of individual participant accounts. So, unlike a traditional defined benefit pension plan, Genworth’s 401(k) plan does not pay participants a fixed retirement income, and Genworth does not decide how to allocate plan assets among investment funds.

Plaintiffs sued Genworth in the Eastern District of Virginia, alleging that Genworth breached its ERISA fiduciary duties by offering the BlackRock LifePath Index Funds among the investment options available through its 401(k) plan because the BlackRock Funds performed “significantly worse” than four allegedly similar TDFs.

Certification of a Mandatory Class

After discovery was completed, the district court certified a class consisting of “[p]lan participants and beneficiaries whose accounts were invested in the BlackRock TDFs during the Class Period” under Rule 23(b)(1).⁸ The court held that breach of fiduciary duty claims brought under ERISA § 502(a)(2) “inherently” meet Rule 23(a)(2)’s commonality requirement because a defendant’s liability with respect to a plan does not vary depending on which plan participant brought the action.⁹

³ See 29 U.S.C. § 1104(a)(1)(B); 29 U.S.C. § 1132(a)(2); 29 U.S.C. § 1109(a).

⁴ See Fed. R. Civ. P. 23(a).

⁵ *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 350 (2011).

⁶ See Fed. R. Civ. P. 23(b).

⁷ *Wal-Mart*, 564 U.S. at 362.

⁸ *Trauernicht v. Genworth Fin., Inc.*, No. 3:22-CV-532, 2024 WL 3835067 at *9 (E.D. Va. Aug. 15, 2024), *rev’d and vacated*, No. 24-1880, 2026 WL 667917 (4th Cir. Mar. 10, 2026).

⁹ See *id.* at *8.

In reaching its conclusion, the court emphasized the derivative nature of ERISA § 502(a)(2) claims, and treated the plaintiffs as suing on behalf of the plan and seeking recovery to the entire plan. The court found this sufficient to satisfy Rule 23(b)(1)(A) because allowing individual suits to proceed alongside a plan-wide action could lead to incompatible standards of conduct for Genworth. The court also reasoned that Rule 23(b)(1)(B) class action certification was appropriate because resolving the lawsuit would “be dispositive of the interests of the other participants’ claims” on behalf of the plan.¹⁰ It held that ERISA § 502(a)(2) claims are distinct from individualized monetary damages claims because § 502(a)(2) damages flow to “the class in bulk rather than to individual claimants.”¹¹

Fourth Circuit Reversal

On interlocutory appeal, the Fourth Circuit reversed and vacated the class certification order.¹² The Fourth Circuit held that the district court was wrong to rely on an “inherent” commonality and conducted a rigorous analysis of whether class members suffered different injuries in different circumstances. It found that each participant “participated in the plan in a materially different way”: participants selected different vintages of the BlackRock LifePath Index, at different times, during different market conditions. Participants also withdrew assets from the plan at different times. As a result, the Fourth Circuit rejected the district court’s holding that the Rule 23(a)(2) commonality prerequisite was satisfied.

The Fourth Circuit also held that ERISA § 502(a)(2) claims brought in the context of a defined contribution plan are “individualized monetary claims” that cannot be joined in a mandatory class certified under Rule 23(b)(1). Although a plan participant may bring a § 502(a)(2) claim on behalf of the plan to recover losses sustained in the participant’s individual account, defined contribution plan losses vary by participant behavior and any losses recovered to the participant’s individual retirement account are “individualized monetary claims.” Therefore, the Fourth Circuit held that plaintiffs’ Rule 23(b)(1) class certification was inappropriate.

Key Takeaways

Trauernicht may have several implications for fiduciaries.

Most directly, Fourth Circuit plaintiffs appear to be foreclosed from certifying a mandatory class under Rule 23(b)(1) for breach of fiduciary duty claims regarding defined contribution plans. For example, in light of the *Trauernicht* decision, the Eastern District of Virginia recently vacated its week-old order granting Rule 23(b)(1) class certification in the context of alleged fiduciary breaches relating to an electric utility trade group’s defined contribution plan.¹³

¹⁰ See *id.* at *3.

¹¹ *Id.* at *14.

¹² *Trauernicht v. Genworth Fin. Inc.*, No. 24-1880, 2026 WL 667917 (4th Cir. Mar. 10, 2026).

¹³ Order, *Mullins et al. v. National Rural Electric Cooperative Association et al.*, No. 1:25-cv-00994 (E.D.Va. Mar. 13, 2026), Dkt. No. 103.

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This development may drive plaintiffs to file ERISA cases in other jurisdictions, and may also complicate the settlement approval process for Fourth Circuit cases.

Second, plan fiduciary defendants in other jurisdictions may consider challenging Rule 23(a)(2) commonality by emphasizing uninjured participants and differences in investment vintages, timing, and market conditions. In addition, certification of a class without conducting a rigorous analysis of commonality may support an appeal, even in cases where the defendant did not challenge class certification via an interlocutory appeal.

Third, the *Trauernicht* ruling has potential implications outside the Fourth Circuit if other jurisdictions follow suit. If some courts adopt the Fourth Circuit's approach and others do not, we may see future clarification from the Supreme Court. For now, defense counsel nationwide should treat *Trauernicht* as persuasive authority for resisting mandatory class certification and insisting on rigorous, participant-level commonality analysis. Whether *Trauernicht* ultimately chills the filing of ERISA fiduciary breach class actions or simply reroutes them through a more demanding procedural channel remains to be seen. But either way, ERISA practitioners should not treat mandatory class certification as a foregone conclusion in defined contribution plan litigation.

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