

## Breach of Fiduciary Duty Class Action Targets Relatively Small 401(k) Plan

---

June 17, 2016

---

---

Over the past several months, high profile class action lawsuits have been filed against plan sponsors and fiduciaries of very large 401(k) plans alleging breaches of fiduciary duty related to excessive plan administrative fees and underperforming investment options. A new class action lawsuit filed in the U.S. District Court of Minnesota raises concerns that plan sponsors and fiduciaries of relatively small 401(k) plans may also become targets of such suits. Similar to the class actions filed against fiduciaries of large 401(k) plans, plaintiffs in the case of *Severson v. LaMettry's Collision, Inc.* allege their employer, its president, and its CFO breached their fiduciary duties by causing the employer's 401(k) plan to pay excessive administrative fees, selecting imprudent classes of investments, and selecting investment options that were unnecessarily expensive. Unlike the other class actions, the LaMettry 401(k) plan is relatively small, having just over 100 participants and approximately \$9.2 million in assets. Although this case is in its earliest stages, it is a good reminder for plan sponsors and fiduciaries of retirement plans of all sizes to ensure they have processes in place to prudently select plan investment alternatives and service providers, to monitor those investment alternatives and the plan's administrative expenses, and to document how decisions to select and retain investment alternatives and service providers were made. The complaint is available [here](#).