

Trader Joe's Loses Duty to Monitor 'Excessive' Fees Count, but Prevails on Forfeiture, Investment Performance Claims

The grocery chain was ordered to pay \$1.2 million out of the more than \$9 million former employees sought.

Reported by [EMILY BOYLE](#)

A federal judge in Massachusetts ruled on September 28 that Trader Joe's Co. is not liable for claims it improperly used forfeited participant 401(k) funds and that it offered poorly performing investments in the retirement plan, but found it liable for having failed to monitor "grossly excessive" recordkeeping fees.

U.S. District Judge William Young ordered the grocery retailer to pay plaintiff participants nearly \$1.2 million in damages to make up the difference between the \$48 each participant had been paying for Capital Group's recordkeeping services and the amount plan fiduciaries could have negotiated based on the size of the plan. The plaintiffs originally sought more than \$9 million in combined damages on all claims.

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Young wrote in his opinion that the failure of Trader Joe's to put out a request for proposals or request for information for a recordkeeper was evidence of its breach of fiduciary duty as a plan sponsor under the Employee Retirement Income Security Act.

"While conducting an RFP or an RFI would have strongly indicated that the committee engaged in a competitive process to engage a lower or more ideal recordkeeping fee, the lack of these processes along with the other prevailing circumstances—such as the lack of evidence of negotiations with the recordkeeper regarding its fees—is what is the nail in the defendants' coffin," Young wrote.

Andrew Oringer, an ERISA attorney and head of the Wagner Law Group's New York office who was not involved in the case, warned of the case's potential implications for plan sponsors in an emailed response to questions.

"The case could be troubling to plan sponsors and fiduciaries, because it does not seem that the sponsor and the fiduciaries had their eyes off the ball completely," Oringer wrote. "There was evidence of a market check, albeit a 'soft' one. ... But the court held that the efforts just were not enough."

Case Background

In [January 2025](#), six former Trader Joe's employees filed a complaint in U.S. District Court for the District of Massachusetts, claiming their 401(k) plan was overinvested in one fund with excessive fees and that the company mismanaged forfeited funds. The employees filed a class action suit on behalf of themselves and all participants and beneficiaries with account balances between January 28, 2019, and the date of judgment.

The plan had more than \$2.7 billion in assets under management across 48,631 accounts with balances at the end of the 2025 plan year, according to the plan's Form 5500..

According to the complaint in *Stephen et al. v. Trader Joe's Co. et al.*, approximately 70% of plan assets—nearly \$2 billion—were invested in one fund—the American Funds American Balanced Fund R4—in 2019 and 2020. Starting in 2021, the assets were transferred to the Capital Group American Balanced Trust, a collective investment trust.

The plaintiffs alleged that the CIT version of the fund had lower fees and that the plan's fiduciaries should have replaced the R4 share class, which "saddled the participants with needlessly high fees," with the CIT sooner. The former employees also argued that the failure of Trader Joe's to "include a target-date suite in the plan" was imprudent.

In addition, Trader Joe's was accused of using millions of dollars in plan assets, obtained from participants' forfeited funds, to reduce some of its future company contributions instead of reducing or eliminating some of the "excessive" recordkeeping fees.

A 'Sobering' Effect on Sponsors, Fiduciaries

Wagner's Oringer wrote that the case presented what has become a "common understanding" that total fees—not just the direct fees paid by the plan—could be the subject of legitimate negotiation. He said the Department of Labor's disclosure rules, including a regulation that requires a "covered service provider" to provide the plan fiduciary with certain disclosures concerning fees and services it provides, were designed to make the situation more transparent.

The outcome of the case shows the possible need, however—especially in the case of large plans—to explore "robust" fee analysis and review procedures, according to Oringer. He cited the court's "perfunctory ruling" that Trader Joe's and its board of directors failed to adequately monitor even its own investment committee, is an example to illustrate his point.

The case had not been appealed, as of October 8. Even if there is an appeal, the loss at the district level could be "sobering" to plan sponsors and fiduciaries, Oringer wrote.

The case is one of dozens filed in recent years challenging employers' use of 401(k) forfeitures. Federal courts have dismissed similar forfeiture complaints against companies including [AT&T](#), [Home Depot](#) and [JPMorganChase](#). The [Department of Labor](#) has submitted [five amicus briefs](#) supporting employers in forfeiture litigation.

Plaintiffs filed 48 plan forfeiture complaints in 2025, according to [Encore Fiduciary](#), up from 29 in 2024.

Neither Muhic Law LLC nor Capozzi Adler PC, which represented the plaintiffs, responded to a request for comment. O'Melveny and Myers, which represented Trader Joe's, also did not respond to a request for comment.

Tags

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