



Erin Weber Discusses Upcoming Benefits Appellate Argument with Law360

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Winston & Strawn partner Erin Weber spoke with Law360 to discuss a case in which two Ohio public pension funds are asking the Second Circuit to revive a securities class action accusing Discovery of not telling investors about the flagging performance of WarnerMedia’s streaming service prior to a \$43 billion merger of the two companies. The investors seek to reverse U.S. District Judge Valerie Caproni’s decision dismissing the class action after concluding the pension funds hadn’t adequately alleged any actionable omissions by Discovery.

Judge Caproni said in her dismissal that investors didn’t plead actionable omissions when they alleged the company hid the number of subscribers that hadn’t activated streaming accounts. The pension funds argue on appeal that those omissions were materially misleading, and that investors weren’t adequately informed that 11% of the Warner Brothers and Discovery total subscriber base was made up of either nonpaying subscribers or those who only subscribed to non-core products.

Discussing the case’s potential impact on ERISA plans, Erin said, “this will be an important case for really all shareholders and all shareholder suits, which of course can oftentimes include big pension plans.”

She noted that the Second Circuit will be considering the case after the U.S. Supreme Court in April vacated a Second Circuit decision to revive an investor suit in *Macquarie Infrastructure Corp. et al. v. Moab Partners LP et al.*

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