

Greetings & a warm welcome to this week's edition of 401k Real Talk. This is Fred Barstein contributing editor at WealthManagement.com's RPA omnichannel and CEO at TRAU, TPSU & 401kTV - I review all of this week's stories and select the most important and interesting ones providing open honest and candid discussion you will not get anyway else. So let's get real!

The [DOGE cuts have hit EBSA](#) with 22.4% of the over 800 employees resigning sure to cripple people intensive activities like enforcement, which restored \$1.4bn in 2024, help hotlines and SECURE 2.0 implementation. At a recent industry conference, Ali Khawar, former Principal Deputy Assistant Secretary of Labor, questioned whether the agency can fulfill its mission claiming that the agency was already understaffed and that DOGE efforts could lead to the best and brightest leaving or looking.

EBSA oversees over 800,000 retirement, 2.6m health and another 514,000 other plans affecting 150m US citizens.

And while ERISA litigation has not hit smaller plans, they are held in check by the DOL which may no longer be the case especially troubling as new plan formation explodes.

[Pentegra suffered a \\$39m judgment](#) in a rare jury trial (never mind the many millions spent defending) with the court finding several fiduciary breaches including self-dealing, plan mismanagement and excessive fees while knowingly receiving illegal payments.

The class action against the MEP made up of about 250 community banks had \$2.2bn at the end of 2023 pitting the legendary Schlichter and Bogard law firm against Groom Law.

What's especially interesting is that Pentegra is aggressively marketing their 316 services where plans outsource fiduciary administrative services to them. Just saying...

After potentially opening the ERISA lawsuit floodgates in their *Cornell* decision, the US Supreme Court has asked the Solicitor General for an opinion about on [an issue raised in the Home Depot case](#) of whether plaintiffs need to prove actual damages or defendants have to disprove them.

The case started in an Atlanta D Ct ruling for the defendants affirmed by a Ct of Appeals – there are splits in other districts so likely the S Ct will decide the issue which will have huge impacts on ERISA litigation.

[What are the key functions of an RPA?](#) An advisory firm outlined them recently which, along with fees, funds and fiduciary, include participant education, and regulatory compliance. Proper due diligence and fee transparency were also cited. Red flags include lack of documentation and plain English communication, not keeping plans current on new laws and ignoring participant demographics.

So while an RPA oversees all other vendors to make sure they are doing their job at a reasonable fee and may also be tasked with helping participants with financial planning, not mentioned is who watches the watchmen or *“Quis custodiet ipsos custodes”*?

Finally, be sure to register for TPSU’s May 7th 401k Café which will review the 10 biggest lies told to plan sponsors including my favorite – your plan is free.

So those were the most important stories from the past week. I listed a few others I thought were worth reading covering:

- [Benartzi launches AI-powered Generative Population Engine replicating field market research](#)
- Product/partnership announcements, including:
 - [401Go partners with Heartland](#)
 - [Group IRA automates rollover process for TPAs](#)
 - [Finch partners with KTRADE to provide access to payroll data](#)
- [Allianz report shows growing interest in lifetime income](#)
- [Morningstar debates whether PE will be coming to 401\(k\) plans](#)

Please let me know if I missed anything or if you would like to comment. Otherwise I look forward to speaking to you next week on 401k Real Talk.