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CLIENT ALERT

SCOTUS Rules in Favor of Church-Affiliated Hospitals in "Church Plan" Dispute

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On June 5, 2017, the U.S. Supreme Court (Court) in an 8-0 decision held that a plan maintained by a principal-purpose organization (i.e., a church-associated organization) qualified as a "church plan," regardless of who established it.

The Employee Retirement Security Act of 1974 (ERISA) generally obligates private employers offering pension plans to adhere to an array of rules designed to ensure plan solvency and to protect plan participants, such as obtaining mandated government-backed pension insurance and complying with funding standards. However, ERISA exempts church plans from most of these requirements.

The petitioners were three church-affiliated hospitals that offered their employees defined benefit pension plans established by the hospitals themselves. The respondents alleged that the hospitals' pension plans did not fall within ERISA's church plan exemption because they were not established by a church, but the hospitals argued that Congress' intent was to ensure that churches and church-affiliated organizations received comparable treatment under ERISA.

The Court agreed to hear these cases because the appellate courts and district courts had arrived at contrary conclusions on the issue. At question was the definition of a church plan under ERISA. In 1974, a church plan was initially defined in the applicable statute as a plan "established and maintained…for its employees…by a church." [1] Congress amended the statute in 1980 to expand the definition, adding that a church plan "includes a plan maintained by an organization…for the employees of a church…if such organization is controlled by or associated with a church…"—in other words, a "principal-purpose" organization. The Court did not address the scope of a principal-purpose organization, but focused on the question of whether a plan must be established by a church to qualify for the church plan exemption.

The Court adhered to the presumption that each word Congress uses or omits is purposeful, and that the word "includes" was not meant to be literal, but rather indicates that a different type of plan should be eligible to receive the exemption as well. In other words, the new phrase can stand in for the old one, and as one court explained succinctly, "if A is exempt, and A includes C, then C is exempt." [2]

By this logic and under this ruling, plans established by a principal-purpose organization are eligible for the exemption so long as they are maintained by a principal-purpose organization.

In a concurring opinion, Justice Sotomayor expressed concern over the ruling's implications for participants in such church plans. By holding that ERISA's church plan exemption covers plans "neither established nor maintained by a church, the Court holds that scores of employees—who work for organizations that look and operate much like secular businesses—potentially might be denied ERISA's protections." She noted that it was the failure of unregulated church plans that spurred the case at hand and was troubled by the outcome of this decision.

While this decision is certainly welcome news for principal-purpose organizations who sponsor pension plans, such organizations may nonetheless want to conduct a comprehensive analysis of their plans, as the plaintiffs have pledged to continue to litigate these cases to ensure that the church plan exemption is claimed only in appropriate circumstances.

[1] 29 U.S.C. Section 1002(33)(A).

[2] *Overall v. Ascension*, 23 F. Supp. 3d 816, 828 (ED Mich. 2014).

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