CHURCH-AFFILIATED EMPLOYEE BENEFIT PLANS CAN QUALIFY FOR ERISA'S CHURCH PLAN EXEMPTION

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In 2013, an alliance of two plaintiff firms filed class actions against nonprofit religious employers across the nation, contending that their pension plans were not church plans because they were not established by churches.

One such action was filed against Advocate Health Care Network, one of its officers, and two of its benefits-related committees. The plaintiffs in Advocate sought a declaration that Advocate's pension plan is not a church plan because it was not established by a church. Among other things, the plaintiffs sought a court order directing the plans to comply with ERISA. The federal district court ruled in favor of the plaintiffs, holding that Advocate's plan was not a church plan because neither a church nor an association of churches initially established the plan. Advocate appealed the decision to the Seventh Circuit Court of Appeals, and the Seventh Circuit affirmed the district court's decision, holding that church plans must be established by churches.

Advocate then petitioned the Supreme Court which, in a unanimous decision handed down on June 5th, 2017, rejected the holdings of the lower courts, ruling instead that an employee benefit program for employees of a church-affiliated organization can qualify as a "church" plan, if (a) the plan is maintained by an entity (e.g., a retirement benefits committee or pension board) the principal purpose of which is the administration or funding of an employee benefit plan (i.e., a principal purpose organization"); and (b) the "principal purpose organization" is controlled by or associated with a church.

The Supreme Court's decision validates numerous IRS private letter rulings and United States Department of Labor rulings that stand for the proposition that plans established by church affiliated organizations are exempt regardless of whether a church separately established them. If the plaintiff's argument had prevailed, hundreds of employee benefit plans established by church-affiliated hospitals, religious schools and universities, old-age homes, youth programs, charitable day care centers, and mental health facilities would have lost their ERISA exemption.

In Advocate, the Supreme Court settled the issue of whether an entity controlled by or associated with a church can establish and maintain a church plan. However, as Justice Sotomayor noted in her concurring opinion, whether an organization is a "principal purpose organization" that is controlled by or affiliated with a church is a different question that should be resolved "with a view toward effecting ERISA's broad remedial purposes." If Justice Sotomayor had her way, ERISA's church plan exemption would be narrowly applied. Church affiliated employers that maintain "church" plans should ensure that their administrative structure and operation conform as closely as possible to the requirements of the exemption. *Advocate Health Care Network v. Stapleton* (2017)