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PRESS RELEASE

Wiley Rein Appellate Group Files Certiorari Petition with Supreme Court in Important Case Involving ERISA Preemption

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On December 18, Wiley Rein's Appellate Group filed a petition for certiorari with the Supreme Court that raises an important question involving the preemption of state laws by the federal Employee Retirement Income Security Act (ERISA). Wiley Rein's client, the Self-Insurance Institute of America, Inc. (SIIA), brought suit in 2011 to challenge Michigan's Health Insurance Claims Assessment Act, which imposes a tax on payments for health care services made at the direction of ERISA plan administrators and insurers to fund the State's Medicaid obligation. In addition to the tax levy, the Act saddles ERISA fiduciaries with burdensome tabulation, recordkeeping, reporting and audit requirements.

SIIA challenged the tax on the ground that is preempted by ERISA, which "supersede[s] any and all State laws insofar as they . . . relate to any employee benefit plan," but both the district court and the U.S. Court of Appeals for the Sixth Circuit rejected SIIA's challenge. The Sixth Circuit adopted a narrow view of ERISA preemption and concluded that, because the Michigan Act did not directly interfere with the processing of health care payments but instead imposed the tax on the value of paid claims, the Michigan tax and its associated requirements reflected a traditional exercise of state sovereignty that was entitled to a strong presumption of validity. In addition, the Sixth Circuit refused to follow the reasoning of a recent Second Circuit decision which struck down a Vermont statute that required ERISA fiduciaries to report health care claims data to the state.

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Wiley, Rein's petition argues that the Sixth Circuit decision misreads recent Supreme Court decisions on ERISA preemption and that the Michigan Act is preempted because it specifically targets ERISA fiduciaries for regulation based on their performance of federally protected functions. In addition, the petition argues that review is warranted to resolve the conflict between the Sixth and Second Circuits, prevent the proliferation of state laws that seek to regulate ERISA plans, and clarify that state laws that specifically target ERISA plans for regulation are not entitled to an implied presumption against federal preemption, because among other things ERISA was specifically intended to preempt state laws that impose burdensome and potentially conflicting requirements on plan administrators. Wiley, Rein's petition further contends that the Supreme Court can eliminate what the Sixth Circuit characterized as a preemption "quagmire" by adopting a "but-for" test that makes clear that ERISA preempts state laws that, like the Michigan Act, would not target ERISA fiduciaries but for their exercise of federally protected functions.

Because certiorari is also pending in the Second Circuit decision that the Sixth Circuit rejected, the petition presents the Supreme Court with a unique and important opportunity to clarify its ERISA preemption precedents and enforce ERISA's mandate by preventing states from hobbling ERISA plans with burdensome tax collection and data reporting requirements.

Attorneys from Wiley Rein's Appellate Group, including firm founder Bert W. Rein, John E. Barry, and Kathleen E. Scott, filed the petition in the Supreme Court.

To read the petition, click here.