

## SCOTUS CLARIFIES STATUS OF RETIREMENT PLANS MAINTAINED BY CHURCH-AFFILIATED HOSPITALS

The Supreme Court of the United States ("SCOTUS") **ruled on Monday, June 5, 2017** that retirement plans maintained by religiously affiliated hospitals meet the definition of a church plan under the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). As church plans, they are not subject to ERISA's rules and regulations unless the sponsoring employer has made an irrevocable election for ERISA to apply to its retirement plan.

The case was actually a consolidation of three different cases in which current and former employees of church-affiliated hospitals filed class action lawsuits alleging that their employers' defined benefit retirement plans were underfunded based upon ERISA requirements. The current and former employees argued that the plans maintained by the hospitals were subject to ERISA and were not church plans as the hospitals (as well as the federal agencies with oversight of ERISA matters) believed. Prior to this opinion from SCOTUS, there was mounting momentum for the position of the current and former employees. For example, the U.S. Courts of Appeal for the Third, Seventh and Ninth Circuits had ruled against the church-affiliated hospitals and in favor of the current and former employees by finding that ERISA-exempt church plans must be established by churches, not hospitals. In addition, a number of hospital systems previously settled similar suits with very large payments to plans and participants.

In its opinion, SCOTUS disagreed with the current and former employees' argument and ruled that the retirement plans for these church-affiliated hospitals are not covered by ERISA, thereby overturning the decisions from the lower courts. The case was decided based upon the definition of the church plan as the U.S. Congress amended it in 1980 from its original 1974 version.

Given this new development, church-affiliated hospitals, as well as other religious organizations, will be likely asking, "What law applies if ERISA does not apply to our retirement plan(s)?" Briefly, state law will control in most matters since ERISA's broad preemption of state law does not apply to church plans. Thus, retirement plans that meet the definition of a church plan under ERISA, as interpreted by SCOTUS, will escape the high standard of care required of employers and fiduciaries under ERISA. In addition, the complicated ERISA rules for retirement plan eligibility, service crediting, funding, vesting, nondiscrimination and distributions will not apply to these church-affiliated hospital system retirement plans.

Justice Sonia Sotomayor concurred in the opinion but voiced concerns about the outcome of the case and its impact on the benefits employees may not receive if the protections of ERISA are not extended to these plans. She called on Congress to act. Justice Neil Gorsuch did not participate in the Court's 8-0 decision.

If you have questions about church plan status under ERISA, contact **Bill Roberts** at [ebplans@hallrender.com](mailto:ebplans@hallrender.com) or your regular Hall Render attorney.