

# Supreme Court Will Decide ERISA Church Plans Exception

12.07.16 | Linda J. Rosenthal, JD



The United States Supreme Court makes the final decision in situations where lower courts around the nation have issued conflicting rulings.

That's what will happen in the case of an important pension-related issue affecting hundreds of thousands of workers in nonprofit, religiously affiliated, healthcare centers. On December 2, 2016, the high court granted writs of certiorari in 3 consolidated cases involving Advocate Health Care, St. Peter's Healthcare, and Dignity Health.

## *Why ERISA Coverage is Important*

The federal Employee Retirement Income Security Act (ERISA) protects pension benefits of most American workers:

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*Without ERISA, your pension may be at risk without you ever knowing it. If you are a participant in a defined benefit plan covered by ERISA, federal rules specify the amounts that employers are required to contribute on an annual basis so that your plan has enough money to pay you benefits when they are due. Further, through the federal Pension Benefit Guaranty Corporation (PBGC) participants are guaranteed a level of retirement benefits if for any reason the employer defaults on its obligation to pay benefits. In other words, in a plan covered by ERISA, your benefits are insured by the PBGC in the same way your balance in a federally insured bank account is insured by the FDIC.*

If a plan is not subject to ERISA, there is no such federal protection. Uncovered plans are subject only to the terms of the plan document. While the “rights of employees and retirees are determined by state law,” there isn’t the same level of protection. “That’s why ERISA was enacted in the first place.”

### “Church Plan” Exception

There are just a few exemptions to ERISA coverage, because the protection offered via ERISA is considered to be an important worker protection. Employers who want to avoid regulations try to squeeze into an excepted category; employees, on the other hand, desire coverage.

One important exception is for “church plans”; this carve-out is intended to apply to clergy and other church employees. “When Congress enacted ERISA in 1974, it exempted church plans because it felt that federal regulation might ‘be regarded as an unjustified invasion of the confidential relationship that is believed to be appropriate with regard to churches and their religious activities.’” There are certain requirements to meet this exception, including – most particularly – the plan must “be established by a church.”

A problem arises when religiously affiliated hospitals try to squeeze into that narrow exception. In the cases that will be before the U.S. Supreme Court this term, the pension plans were not established by any church. Instead, they were created by nonprofit corporations.

Around the nation, there have been lawsuits brought on behalf of the employees of many such health care centers – all of them large organizations with assets as high as Fortune 100 companies. “[A]s of 2012 religiously affiliated hospitals accounted for seven of the country’s ten largest non-profit healthcare systems.”

These plaintiffs have asked the federal courts to rule that their pension plans are not “church plans.” and that their employers must properly fund the plans.

It’s not just healthcare workers that are affected; “certain nonprofit entities such as universities and charities, even though they are not churches, sponsor private retirement plans that claim the benefit

of the church plan exemption.”

### *ERISA Cases To Be Heard*

The U.S. Supreme Court granted certiorari for three cases around the nation because there is disagreement among lower courts as to whether the pension plans of these religiously affiliated hospitals are eligible for the “church plan” exempt. The three cases (along with links to the appellate court rulings) that will be heard are:

*Kaplan v. St. Peter’s Healthcare Retirement Plan* (New Brunswick, NJ): The district court ruled the “church plan” exception did not apply, and the Third Circuit Court of Appeals affirmed unanimously.

*Stapleton v. Advocate Health Care Network* (Illinois): The district court ruled the “church plan” exception did not apply, and the Seventh Circuit Court of Appeals affirmed.

*Rollins v. Dignity Health* (California): The district court ruled the “church plan” exception did not apply, and the Ninth Circuit Court of Appeals affirmed.

Notwithstanding these three appellate court rulings, there are district court decisions from other appellate districts that side with the Internal Revenue Service’s position: that is, that these plans qualify for the “church plan” exception, so workers are not entitled to ERISA protections.

### *Conclusion*

Having accepted these related cases, the Supreme Court will hear and decide the matter before the end of its current term in June 2017.