

NINTH CIRCUIT RULES ON HOSPITAL PENSION PLAN'S CHURCH PLAN STATUS; SUPREME COURT REVIEW COMING?

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Recently the Ninth Circuit Court of Appeals held that a defined benefit pension plan sponsored by a religiously affiliated hospital could not fit within exemption for a "church plan" found in the Employee Retirement Income Security Act of 1974 (ERISA). The Ninth Circuit follows similar decisions in both the Third and Seventh Circuit Courts of Appeal that concluded that a hospital with a religious affiliation cannot establish a church plan exempt from ERISA coverage.

Approximately 30 or more law suits against large hospitals have been filed in recent years challenging the claimed exemption from ERISA coverage. If the plans were required to be governed by ERISA, many of these plans would not have met required funding standards. Just before the decision in the Ninth Circuit, the plans in question for both the Third and Seventh Circuits filed petitions with the U.S. Supreme Court asking for Supreme Court review of the lower court decisions. These decisions all depend on the interpretation of very technical language defining who may establish a church plan. The petitions for review state that the Circuit Court decisions are contrary to many years of guidance and rulings from the Internal Revenue Service, Department of Labor, and Pension Benefit Guaranty Corporation that these plans are exempt from ERISA. The petitioners seeking Supreme Court review argued that deference should be granted to administrative decisions by these agencies interpretation the provision of ERISA. Given the large issues at stake, the Supreme Court's review may be helpful in resolving the definition of what is a church plan under ERISA. *Rollins v. Dignity Health* (9th Cir. 2016)

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