

## U.S. Supreme Court Grants Certiorari To Decide Meaning of Church Plan Exemption Under ERISA

On Dec. 2, the U.S. Supreme Court granted certiorari in *Kaplan v. Saint Peter's Healthcare System* (16-86), *Stapleton v. Advocate Health Care Network* (16-74), and *Rollins v. Dignity Health* (16-258) to decide, in a consolidated manner, whether religious health care systems' employee benefits plans are subject to ERISA, contrary to the Internal Revenue Service's and Department of Labor's longstanding interpretation of ERISA's "church plan" exemption. In each case, the Circuit Court below held that the health care system plans *do not* qualify for ERISA's exemption because they were not, in the Circuit Court's view, "established" by a "church," even though each plan is "maintained" by church-affiliated entity.

As we noted in our previous analysis (see <http://www.stradley.com/insights/publications/2016/08/nonprofit-alert-august-2016>) of these cases, if the Court holds that ERISA applies to employee benefit plans "maintained" by church-associated entities where a narrowly-defined "church" did not first "establish" the plans, the potential impact would be tremendous. From a practical standpoint, religiously-affiliated employers would be subject to the web of statutes and regulations governing employee pension plans and employee health insurance plans, with all of the attendant legal guidance and filing requirements that entails. From a constitutional standpoint, federal oversight into how an entity defines itself as a "church" — an area the government has traditionally avoided because of First Amendment concerns — would be expected and required. In fact, beyond the doctrinal issues, the church-state question presented here cuts very deeply, because it potentially affects how churches would need to organize (and restructure) their financial affairs, an area traditionally free of significant government scrutiny.

The IRS and Department of Labor have issued hundreds of rulings since the ERISA amendments in question were adopted in 1980 validating the church plan status of religious organizations. The Solicitor General has yet to take a position on the issue in the Supreme Court, leaving questions whether there might be a shift in governmental policy and administration.

Briefing will likely be completed in March 2017, with oral argument to follow, and a decision by the end of the Court's term in June. Even if the current vacancy on the Court is filled soon, the Supreme Court's resolution is never a foregone conclusion. Leaders of religiously affiliated entities should consider the potential impact of ERISA compliance and what might be done strategically within the organization to bring the plans into compliance should the need to do so arise.

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