

Only Churches (Not Affiliated Organizations) Can Establish an ERISA-Exempt Church Plan

Summary: A recent ruling states that a retirement plan established by a church-affiliated organization is not an ERISA-exempt church plan because the affiliated church did not establish the plan. The trial court concluded that the plan was not entitled to ERISA's church plan exemption because it was not established by a church, and granted summary judgment (judgment without trial).

The Ninth Circuit has joined the Third and Seventh Circuits in holding that a retirement plan established by a church-affiliated organization is not an ERISA-exempt church plan because the affiliated church did not establish the plan. A plan participant, on behalf of herself and others, claimed that the hospital that established (and also maintains) the plan failed to comply with ERISA's vesting, reporting and disclosure, funding, trust, and fiduciary rules. The plan sponsor argued that the plan was exempt from ERISA as a church plan. The trial court concluded that the plan was not entitled to ERISA's church plan exemption because it was not established by a church, and granted summary judgment (judgment without trial). It stayed further proceedings to allow for this appeal.

The Ninth Circuit, acknowledging that ERISA's church plan definition could be read two ways, concluded that the more natural reading permits a church-established exempt plan to be maintained by a church-affiliated organization but does not permit a church-affiliated organization to establish an exempt plan. The court reviewed the legislative history, noting that the original statutory language unambiguously limited church plans to those established by a church and that subsequent amendments merely allowed church-affiliated organizations to maintain exempt church plans, not to establish them. The court explained that the ERISA § 3(33)(C)(i) phrase "includes a plan maintained by an [affiliated] organization" serves to broaden the definition of organizations that may maintain a church plan but does not eliminate the requirement that the plan be established by a church. Like the Third and Seventh Circuits, the court was not persuaded by various IRS rulings approving the exempt status of plans established by church-affiliated organizations. Affirming the trial court's decision, the court remanded the case for further proceedings.

Sources:

Thomson Reuters Checkpoint, Rollins v. Dignity Health, 2016 WL 3997259 (9th Cir. 2016)

[United States Court of Appeals for the Ninth Circuit report for publication](#)