

## Publications

# View from Groom: After Advocate – Practical Considerations for Church Plan Sponsors

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In a unanimous decision by eight justices (with Justice Gorsuch taking no part) in *Advocate Health Care Network et al. v. Stapleton et al.*, the Supreme Court has rejected the plaintiffs' interpretation of the definition of church plan for purposes of exemption from ERISA. In the majority opinion written by Justice Kagan, the Court approached the single question before it – whether a church plan had to be originally established by a church, rather than by a church-affiliated nonprofit – as a matter of statutory interpretation. Applying the rules of construction, the Court found that ERISA did not impose such a requirement.

Certainly, church plans can breathe a little easier with this decision. But the Supreme Court addressed only one element of the church plan definition – the question of establishment. We would suggest this presents an opportunity for church plan sponsors to reassess their situations in light of the *Advocate* decision, and in some cases, make some changes.

And don't forget that these considerations apply to all church plans – including defined contribution 401(a) and 401(k), 403(b), 457, nonqualified, and welfare plans – not just the defined benefit plans that have been the subject of most of the litigation. As noted in the attached article, church 403(b) plans have also been the subject of litigation in state court. Please see the attached article for further information.

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