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## Court Issues Landmark Decision in Church Plan Lawsuit

### Background

As reported in prior alerts,<sup>1</sup> since 2013, several well-known plaintiffs' law firms have filed more than ten class action lawsuits across the country claiming that the defined benefit plans of religiously-affiliated health care systems do not qualify for ERISA's church plan exemption. Most of these lawsuits have targeted Catholic health care systems. Church plans are exempt from ERISA and from many requirements of the Internal Revenue Code. The crux of these lawsuits is that the plans of the health care systems do not qualify for the church plan exemption because the plans were not established by churches. The plaintiffs argue that, because the plans allegedly do not qualify as church plans, they are required to comply with ERISA's requirements, including minimum funding requirements, notice and disclosure requirements, and the requirement to pay PBGC insurance premiums. In some of these lawsuits, the plaintiffs have claimed that the plans at issue are underfunded by hundreds of millions of dollars and that the defendants are liable for civil law penalties that could add up to billions of dollars.

On December 8, 2015, a federal judge in Denver, Colorado granted summary judgment to the defendants in one of the church plan lawsuits: *Medina v. Catholic Health Initiatives, et al.*, Civil Action No. 13-cv-01249 (D. Colo.). Groom Law Group represented defendant Catholic Health Initiatives ("CHI"), a Catholic non-profit health care system, and the other defendants, which included members of CHI's Board of Stewardship Trustees ("BOST"). The court held that the defined benefit pension plan sponsored by CHI (the "CHI Plan") was a church plan under 29 U.S.C. § 1002(33)(C), dismissed the plaintiff's claims against all defendants, and awarded the defendants their costs. *Medina* is the first of the recent church plan lawsuits to be decided on the merits based upon a full discovery record.

### The Church Plan Exemption

The church plan exemption states in relevant part: "The term 'church plan' means a plan established and maintained . . . for its employees (or their beneficiaries) by a church . . . which is exempt from tax under section 501 of title 26." 29 U.S.C. § 1002(33)(A). The statute goes on to provide that:

A plan established and maintained for its employees (or their beneficiaries) by a church . . . includes a plan maintained by an organization, whether a civil law corporation or otherwise, the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement

<sup>1</sup> [Litigation Challenges to the Church Plan Definition: a Critical Issue for Church-Related Hospitals and Nonprofits \(April 26, 2013\)](#); [District Court Rules that Church Hospitals Cannot Establish Non-ERISA Church Plans \(January 24, 2014\)](#); [Another District Court Rules that Church Hospitals Cannot Establish Non-ERISA Church Plans \(April 30, 2014\)](#); [Plaintiffs Settle Church Plan Case in 6th Circuit – Plan Remains a Church Plan \(May 14, 2015\)](#); [Summary of Ascension Settlement Terms \(May 14, 2015\)](#)

benefits or welfare benefits, or both, for the employees of a church . . . if such organization is controlled by or associated with a church. . . .

29 U.S.C. § 1002(33)(C)(i). An organization is “associated with” a church “if it shares common religious bonds and convictions with that church.” 29 U.S.C. § 1002(33)(C)(iv).

### **The Plaintiff’s Complaint**

On November 22, 2013, the plaintiff filed an amended class action complaint on behalf of herself and other participants and beneficiaries in the CHI Plan against CHI and more than 20 individual defendants. The amended complaint alleged that the CHI Plan did not qualify for the church plan exemption because the plan was established by CHI, and CHI is not a church. The amended complaint also alleged that, even if a non-church could establish a church plan, the CHI Plan did not qualify because it was not maintained by an organization controlled by or associated with a church. Because, according to the plaintiff, the CHI Plan did not qualify as a church plan, it was required to follow ERISA’s requirements. Among other things, the amended complaint alleged that the plan was not complying with ERISA’s minimum funding requirements and notice and disclosure requirements. The plaintiff also claimed that the defendants had breached fiduciary duties under ERISA to the CHI Plan participants by not enforcing ERISA’s requirements. Finally, the plaintiff alleged that applying the church plan exemption to the CHI Plan was a violation of the First Amendment’s Establishment Clause.

### **The Court’s Decision**

In his opinion granting the defendants’ summary judgment motion and denying the plaintiff’s cross motion, District Judge Robert Blackburn held that the CHI Plan qualified as a church plan under 29 U.S.C. § 1002(33)(C) and was therefore exempt from ERISA. In reaching this conclusion, the court began by examining the scope of the church plan exemption. Reiterating an opinion from earlier in the case, the court found that a plan need not be established by a church under subsection (A) of the statute to qualify as a church plan. Instead, a plan also can qualify as a church plan by satisfying subsection (C) – i.e., if the plan is maintained by a tax-exempt organization controlled by or associated with a church whose principal purpose or function is the administration or funding of a benefits plan. The court then interpreted subsection (C) to apply to plans sponsored by church-affiliated non-profit organizations and administered by such an organization’s plan committee if the principal purpose or function of the committee is administering the plan and the committee is controlled by or associated with a church.

In analyzing whether the CHI Plan qualified as a church plan under 29 U.S.C. § 1002(33)(C), the court began by examining the history and structure of CHI. The court pointed out that CHI is the civil law identity of Catholic Health Care Federation (“CHCF”), a public juridic person of the Roman Catholic Church established under canon law by decree of the Holy See in the Vatican and accountable to the Holy See. As the civil law identity of CHCF, CHI’s mission and purpose is to carry out the healing ministry of the Catholic Church. The court pointed out that CHI is required to comply with the Ethical and Religious Directives for Catholic Health Care Services (“ERDs”), which contain rules for Catholic health care providers promulgated by the United States Conference of Catholic Bishops. The local Catholic bishops in the dioceses in which CHI operates enforce CHI’s compliance with the ERDs. The court also noted that the Roman Catholic Church publicly declared that CHI is a Catholic institution by listing CHI in the Official Catholic Directory. Turning to the administration of the CHI Plan, the court pointed out that the plan is managed and administered by the CHI and Affiliates Defined Benefit Plan Subcommittee (“DB Plan Subcommittee”). The members of the DB Plan Subcommittee are appointed by CHI’s BOST, and the Subcommittee is required to be mindful of Catholic teachings and tenets in administering the CHI Plan.

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Applying the church plan exemption to these facts, the court concluded that CHI's ties to the Catholic Church "extend downward to the DB Plan Subcommittee," and that it was "evident that both CHI and the DB Plan Subcommittee plainly share common religious bonds and convictions with the Catholic Church." Indeed, the court explained, "the entire reason for CHI's existence is to allow the [Catholic] Church to pursue its faith-based healing ministry in the secular world, and the Subcommittee must keep that mission at the forefront in its administration of the [CHI] Plan." Because there was "no serious dispute that the principal purpose of the DB Plan Subcommittee is to administer the [CHI] Plan," and the Subcommittee was associated with the Catholic Church, the court held that the CHI Plan qualified as a church plan under 29 U.S.C. § 1002(33)(C). Although the court ultimately did not need to reach the question of whether CHI was a "church," such that the CHI Plan qualified as a church plan under 29 U.S.C. § 1002(33)(A), "the court ha[d] little trouble in concluding that CHI is, at the very least, a constituent part of the Catholic Church." Likewise, while the court did not reach the question of whether the DB Plan Subcommittee was "controlled by" a church under 29 U.S.C. § 1002(33)(C)(i), the court stated that it was "likely" that the Subcommittee would meet that legal standard.

Having concluded that the CHI Plan qualified as a church plan, the court addressed the plaintiff's claim that applying the church plan exemption to the CHI Plan would violate the Establishment Clause. The court rejected this claim finding the plaintiff's arguments "singularly unpersuasive." In reaching this conclusion, the court applied the Supreme Court's test for Establishment Clause violations first announced in *Lemon v. Kurtzman*, 403 U.S. 602 (1971). Under *Lemon*, a government action does not violate the Establishment Clause so long as it (1) has a secular purpose, (2) does not have the principal or primary effect of advancing or inhibiting religion, and (3) does not foster excessive government entanglement with religion. *Lemon*, 403 U.S. at 612-13. The court held that the church plan exemption satisfied each of the three *Lemon* factors and, "[a]ccordingly, affording CHI the benefit of the church plan exemption works no violation of the First Amendment."

### **Key Takeaways**

The *Medina* opinion included several "firsts" with regard to the recent wave of church plan lawsuits. It was the first court to hold at the summary judgment stage that the plan of a Catholic health system was a church plan based on a full discovery record;<sup>2</sup> the first court to suggest that a Catholic health system could qualify as a "church" under 29 U.S.C. § 1002(33)(A); and the first court to reject a plaintiff's Establishment Clause challenge to the church plan exemption on the merits. In these respects, the *Medina* opinion may provide a roadmap for the courts that will decide these issues in other church plan cases.

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<sup>2</sup> In one other case, *Overall v. Ascension*, the court ruled on a motion to dismiss that the plan of a Catholic health system qualified as a church plan. *Overall v. Ascension*, 23 F. Supp. 3d 816 (E.D. Mich. 2014).