

# Church-Exemption Ruling Could Have Wide Implications

A federal district court judge has widened the exemption to include an N.J. hospital in a lawsuit remanded back to the district court level by the Supreme Court.

Reported by [NOAH ZUSS](#)

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Retirement plan sponsors affiliated with a religious entity won in court after a federal district judge ruled that the Saint Peter's Healthcare System of New Jersey qualifies for the [church-plan exemption](#), under the Employee Retirement Income Security Act, a new court opinion shows.

District Court Judge [Michael Shipp](#) granted the defendants' partial motion for summary judgement and denied the plaintiff's motion in the lawsuit against the Saint Peter's 403(b) plan—for which the court heard oral arguments on the parties motions, last year—*Laurence Kaplan v Saint Peter's Healthcare system et al.*

Shipp also [issued a court order](#) that instructed the parties to e-file joint correspondence, with magistrate judge Tonianne Bongiovanni, on the status of Kaplan's constitutional challenge to the church-plan exemption.

"Saint Peter's is an organization that is closely associated with (if not controlled by) the Roman Catholic Church," Shipp wrote in the opinion. "The Committee is a principal-purpose organization that both maintains and administers the plan by (among other functions) sustaining the health of the plan's investments and annual funding. And the Committee is associated with the Roman Catholic Church as a subpart of Saint Peter's and under the supervision of the Bishop of the Diocese of Metuchen, [New Jersey.]"

The original complaint in 2013 argued that Saint Peter's retirement plans were not church plans under the technical church-plan rules because of organizational and other similar matters.

The church-plan exemption excuses certain plans sponsors from the requirements imposed on other tax-qualified retirement plans, under Department of Labor regulations, IRS rules and the Internal Revenue Code.

Under ERISA, the question can be a "critical one" under the plan-qualification provision of the tax code, says Drew Oringer, a partner and general counsel at the Wagner Law Group, which was not involved in the litigation.

"If a plan is a church plan, and no election has been made to waive church-plan status, the fiduciary provision of ERISA will not apply, and many tax-qualification requirements will become inapplicable as well," he adds via email.

The decision would exclude the plan from ERISA rules that obligate plan sponsors to use plan assets only for participants' benefit.

"If the plan is subject to ERISA, that triggers general funding requirements, and would also impose prudence requirements and 'prohibited transaction' rules on plan fiduciaries regarding the plan's assets," says Oringer. "One of the allegations under ERISA was that Saint Peter's used assets that should have been set aside for the Saint Peter's plans for Saint Peter's own benefit."

The Kaplan plaintiffs also said the church-plan exemption violates both the establishment and free exercise clauses of the First Amendment to the United States Constitution.

"The ERISA Church Plan exemption, as claimed by Saint Peter's, is an attempt to extend the accommodation beyond churches and associations of churches, to Saint Peter's—a non-profit hospital conglomerate," argues the complaint. "That extension violates the Establishment Clause because it harms Saint Peter's workers, puts Saint Peter's

competitors at an economic disadvantage, and relieves Saint Peter's of no genuine religious burden created by ERISA."

Oringer explains the claims were rejected or put off as the relevant case law interpreted by the Supreme Court doesn't address the point.

"An invalidation of the provisions relating to church plans in their entirety would have been extremely surprising to many and would have had an enormously disruptive impact on religious organizations and their associated entities that sponsor retirement plans," he says.

#### 'Supreme' Intervention

The latest ruling from Shipp on the church-plan exemption followed [the U.S. Supreme Court decision](#) to send the lawsuit to the district court level. In 2017, the high court ruled, [after hearing oral arguments](#), that retirement plans maintained by principal-purpose organizations qualify as church-plans, under ERISA.

"Many of these church-plan sponsors breathed a real sigh of relief when *Stapleton* was decided," says Oringer referring to the 2017 case.

At the district and appellate levels, courts agreed with rulings in [Stapleton v. Advocate Health Care Network and Subsidiaries](#) and [Rollins v. Dignity Health](#), determining that a church plan must be established by a church per ERISA Section 3(33)(A).

"The Supreme Court in *Stapleton* rejected the narrow reading of the rules and allowed church plans to be maintained by certain church-affiliated organizations," adds Oringer. "The Saint Peters case is one of the cases that was returned to the lower courts by the Supreme Court, when it reversed several cases in *Stapleton*."

In *Advocate Health Care Network v. Stapleton*, the Supreme Court reversed the Third, Seventh, and Ninth circuits' reading of the ERISA exemption, Shipp wrote.

"This matter is not the first time this court has considered the plan and its religious ERISA exemption," wrote Shipp. "Both this court and the [3rd] Circuit ruled that the plan did not qualify for the ERISA exemption because a church did not establish the plan. Two other circuits joined the 3rd Circuit in requiring that a church establish an employee benefits plan to qualify for the ERISA exemption."

#### Taking the Plan to 'Church'

The Saint Peter's Plan and Retirement Plan Committee amended the plan in 2012, to become a defined contribution plan, court records show.

"Where the plan is a 'defined benefit' plan, the plan, if a non-electing church plan, will not be subject to the Pension Benefit Guaranty Corporation benefit-insurance regime, which, on the one hand, will save administrative complexity and premium and other costs for the employer, but, on the other hand, will also leave participants' benefits federally uninsured," Oringer says.

Plaintiff Kaplan argued that when Saint Peter's learned the plan could qualify under the 'church plan' exemption from ERISA in 2006, as part of the Pension Protection Act of 2006, the plan name was changed in 2010 and the plan was amended again in 2012 to become a defined contribution plan, Shipp wrote.

"However, as the recent Kaplan case shows, the final chapter of the story had not yet been written," says Oringer. "The recent Kaplan decision is good news for those church-plan sponsors that may have been nervous that, notwithstanding *Stapleton*, the church-plan status of their plans could have been in jeopardy."

Oringer further explains that plan sponsors affiliated or associated with religious organizations and otherwise implicated by the Shipp ruling may want to reassess their retirement plans' administration.

"The Kaplan decision does show that it could make sense for certain sponsors to review their organizational structure and the details regarding just how their plans are maintained and administered," he says. This would make it more likely "that their plans will continue to enjoy church-plan status under the Supreme Court's decision in

*Stapleton* and the lower court decisions that are being rendered after *Stapleton*."

Plaintiff Kaplan, a former employee at Saint Peter's—from 1985 to 1999—was a participant in the pension plan maintained by Saint Peter's. The original complaint was brought before the United States District Court for the District of New Jersey, in 2013.

A request for comment to Saint Peter's Healthcare System on the litigation was not returned.

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Tags

[church 403\(b\) plans](#), [church retirement plan](#), [defined benefit retirement plans](#), [defined contribution retirement plans](#), [Department of Labor](#), [Employee Benefits Security Administration](#), [fiduciary breach](#), [retirement plan lawsuit](#)

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