No. 16-

IN THE
Supreme Court of the United States

ADVOCATE HEALTH CARE NETWORK, ET AL.,

Petitioners,

v.

MARIA STAPLETON, JUDITH LUKAS, SHARON ROBERTS, AND ANTOINE FOX,

Respondents.

On Petition for a Writ of Certiorari to the U.S. Court of Appeals for the Seventh Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTION PRESENTED

The Employee Retirement Income Security Act of 1974 ("ERISA") governs employers that offer pensions and other benefits to their employees. "Church plans" are exempt from ERISA's coverage. 29 U.S.C. §§ 1002(33), 1003(b)(2). For over thirty years, the three federal agencies that administer and enforce ERISA—the Internal Revenue Service, the Department of Labor, and the Pension Benefit Guaranty Corporation—have interpreted the church plan exemption to include pension plans maintained by otherwise qualifying organizations that are associated with or controlled by a church, whether or not a church itself established the plan.

The question presented is whether the church plan exemption applies so long as a pension plan is maintained by an otherwise qualifying church-affiliated organization, or whether the exemption applies only if, in addition, a church initially established the plan.

PARTIES TO THE PROCEEDING

Petitioners Advocate Health Care Network, the Benefit Plan Administrative Committee for Church Plans of Advocate Health Care Network, the Compensation and Benefits Committee of the Board of Directors of Advocate Health Care Network, and Kevin R. Brady were the defendants in the district court and the appellants in the Seventh Circuit.

Respondents Maria Stapleton, Judith Lukas, Sharon Roberts, and Antoine Fox were the plaintiffs in the district court and the appellees in the Seventh Circuit.

CORPORATE DISCLOSURE STATEMENT

In accordance with Supreme Court Rule 29.6, Petitioners make the following disclosures:

Advocate Health Care Network has no parent, and no publicly held company owns 10% or more of its stock. The Benefit Plan Administrative Committee for Church Plans of Advocate Health Care Network and the Compensation and Benefits Committee of the Board of Directors of Advocate Health Care Network are committees of Advocate Health Care Network. They have no parent, and no publicly held company owns 10% or more of their stock.

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JURISDICTION

The Seventh Circuit issued its decision on March 17, 2016 (App. 1a). On May 24, 2016, Justice Kagan extended the time for filing this petition to and including July 15, 2016. This Court has jurisdiction under 28 U.S.C. § 1254(1).

PROVISIONS INVOLVED

The statutory and constitutional provisions involved include § 3(33) of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1002(33); § 414(e) of the Internal Revenue Code, 26 U.S.C. § 414(e); and the First Amendment, U.S. Const. amend. I. These provisions are set forth in appendix E.

STATEMENT

It has been settled law for well over thirty years that pension plans maintained by otherwise qualifying church-affiliated organizations are exempt from ERISA, 29 U.S.C. § 1001 et seq., whether or not a church itself established the plan. The three federal agencies charged with interpreting ERISA—the Internal Revenue Service (IRS), Department of Labor (DOL), and Pension Benefit Guaranty Corporation (PBGC)—agree that such plans qualify for ERISA's "church plan" exemption, and since 1983 have issued opinion after opinion reaffirming that view. Countless nonprofit religious hospitals, orphanages, schools, day-care centers, and old-age homes have structured their pension plans in reliance on these

agencies' views and on the until-now-unanimous lower court decisions confirming their exempt status.

Two recent appellate decisions throw all this into disarray. The Third and Seventh Circuits have recently held that ERISA's church plan exemption applies only if a church "established" the plan.[1] These decisions are squarely at odds with the views of the relevant federal agencies. They conflict with the decisions of two other federal courts of appeals. They are contrary to the plain statutory text, and they resurrect problems of denominational discrimination that the exemption is designed to erase.

It is hard to overstate the burden and havoc these two decisions have created. The decisions have prompted dozens of class-action lawsuits against religious organizations that have relied on the church plan exemption for decades. Twenty-two suits have been filed in the last four months alone. The lawsuits seek billions upon billions of dollars in retroactive liability for noncompliance with ERISA's recordkeeping and other procedural requirements, from which church plans are exempt.

The question presented is immensely important. It affects hundreds, probably thousands, of nonprofit religious employers and millions of employees. These lawsuits have already caused a massive upheaval in the administration of pension plans by religious employers, and they impose substantial burdens on the judicial system and litigants. A significant federal regulatory scheme now applies differently in different circuits. The recent decisions upend

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[1] A petition for certiorari from the Third Circuit's decision is due three days from now, on July 18, 2016.

the substantial reliance interests of untold numbers of religious employers that, like petitioner, received express confirmations from the government that their pension plans were exempt. Absent this Court's intervention, courts, employers, and the government must muddle through the many imponderables left in the wake of these decisions, including the scope of retroactive liability and the contours and import of the newly created church-establishment requirement.

The defendants in these suits are nonprofit organizations serving the needy for whom the potential financial liability could be crippling. And affected religious organizations operating in the Third or Seventh Circuit will be forced to restructure their pension plans to comply with ERISA. This will mean renegotiating contracts with employees whose benefits are covered by collective bargaining agreements, revamping benefit structures, redesigning pension funding policies, and overhauling budget plans. It would be impossible to unring the bell if the Court later decides that these recent decisions are wrong, and that the three federal agencies that administer ERISA are right. This Court should grant certiorari now to settle this threshold issue of ERISA coverage.

A. Statutory Background

1. Congress has exempted "church plans" from the requirements of ERISA since it enacted the statute in 1974. 29 U.S.C. § 1003(b)(2) (1974). Church plans "are some of the oldest retirement plans in the country," and "[s]everal date back to the 1700's." 125 Cong. Rec. 10,052 (1979) (statement of Sen. Talmadge). ERISA regulation, Congress determined, would represent "an unjustified invasion of the confidential relationship that is believed to be appropri-

ate with regard to churches and their religious activities." S. Rep. No. 93-383 at 81 (1973).

As originally enacted in 1974, ERISA defined an exempt "church plan" as "(i) a plan established and maintained for its employees by a church or by a convention or association of churches which is exempt from tax under section 501 of the Internal Revenue Code of 1954, or (ii) a plan described in subparagraph (C)." 29 U.S.C. § 1002(33)(A) (1976).[2] Subparagraph (C) in turn contained a temporary transitional provision regarding existing plans established and maintained for the employees of "one or more agencies of [a] church." *Id.* § 1002(33)(C). Such plans were "treated as a 'church plan,'" but only plans "in existence on January 1, 1974," and even for those plans, only through 1982. *Id.* Parallel, identical provisions of the Internal Revenue Code define the term "church plan" for tax and PBGC insurance purposes. 26 U.S.C. § 414(e) (1976); 29 U.S.C. § 1321(b)(3).

2. In 1977, the IRS determined that the church plan exemption did not cover pension plans established and maintained by two orders of Catholic sisters for the employees of their hospitals. IRS Gen. Couns. Mem. 37,266, 1977 WL 46200 (Sept. 22, 1977). The IRS reasoned that a religious order is not a "church" unless the order is "carrying out the *religious* functions of the church," which the IRS limited to the "ministration of sacerdotal functions and the conduct of religious worship." *Id.* at *4-5 (quotation marks omitted). The IRS concluded that the sisters'

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[2] Hereinafter, the term "church" includes a convention or association of churches.

services to the sick "are not 'church functions' … since they are not religious." *Id.* at *5.

In response, religious groups of all denominations objected to the "intrusion of the [IRS] into the affairs of church groups and their agencies by presuming to define what is and what is not an integral part of these religious groups' mission." 125 Cong. Rec. 10,054-57. The groups explained that the IRS's view would require churches to expel from their pension plans the employees of affiliated organizations. *Hearings Before the Subcomm. on Private Pension Plans and Emp. Fringe Benefits*, 96th Cong. 384 (1979). The groups also warned that the IRS interpretation could prohibit a church from establishing and maintaining an exempt plan indirectly through an affiliated organization, such as a church "pension board." *Id.* at 387, 481.

3. In 1980, Congress amended the church plan exemption, making two principal changes. Multiemployer Pension Plan Amendments Act ("MPPAA"), Pub. L. 96-364, § 407. First, Congress made the church the employer of employees of church-affiliated organizations. Section 1002(33)(C)(ii) now defines the term "employee of a church" to "include[] … an employee of an organization, whether a civil law corporation or otherwise, which is [a nonprofit] and which is controlled by or associated with a church." *See also* 26 U.S.C. § 414(e)(3)(B) (parallel tax provision). A "church … shall be deemed the employer of any individual included as an employee under clause (ii)." 29 U.S.C. § 1002(33)(C)(iii); *see* 26 U.S.C. § 414(e)(3)(C) (parallel tax provision).

Second, Congress added new § 1002(33)(C)(i), which states:

> 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 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); *see* 26 U.S.C. § 414(e)(3)(A) (parallel tax provision). Thus, while the original Act defined a "church plan" as only those plans "established and maintained by a church," § 1002(33)(A), the Act now provides that a plan "established and maintained by a church … includes a plan maintained by an organization [that] is controlled by or associated with a church," § 1002(33)(C)(i).

4. In 1983, the IRS concluded that, in light of the 1980 amendment, a plan maintained by a church-affiliated retirement committee is a church plan regardless of whether it was established by a church. IRS Gen. Couns. Mem. 39,007, 1983 WL 197946, at *1-2 (July 1, 1983). The IRS explained that a plan covering employees of churches or church-affiliated organizations may qualify as a church plan in two ways. First, a church plan may "be established and maintained by a church." *Id.* at *5. The IRS reiterated its view that religious orders operating hospitals or the like are not "churches." *Id.* at *4. But under the amended exemption, "this nonchurch status is not fatal." *Id.* That is because, alternatively, a church plan may be "maintained … by an organiza-

tion described in" the tax-code equivalent of § 1002(33)(C)(i)—*i.e.*, by a church-controlled or associated organization. *Id.* at *5. "[B]ecause of the passage of the MPPA[A]," the IRS explained, "church plan status no longer hinges on whether an order is a church." *Id.* at *6.

Since then, the IRS has issued more than 500 private letter rulings confirming that plans maintained by qualifying church-affiliated organizations—including specifically petitioner's plan—are exempt regardless of whether they were established by churches. App. 70a-111a. The agency issued its most recent church plan ruling while this case was pending in the Seventh Circuit. *See* IRS PLR 2015-51004, 2015 WL 9245327 (Dec. 18, 2015).

The DOL likewise has issued nearly 70 advisory opinions determining that pension plans maintained by qualifying church-affiliated organizations are church plans regardless of whether they were established by churches. App. 64a-69a. And the PBGC does not insure plans that are exempt because they are maintained by church-affiliated organizations, regardless of whether they were established by churches. *See* PBGC Op. Ltr. 78-1 (Jan. 5, 1978); PBGC, Questions to the PBGC and Summary of Their Responses 25 (Mar. 2011), http://www.pbgc.gov/documents/2011bluebook.pdf.

5. Since 1983, Congress has passed three statutes that presume that church-affiliated organizations can establish an exempt church plan.[3] And Congress has never disturbed the consistent,

[3] Pub. L. 97-248, § 251(b) (1982); Pub. L. 108-476, § 1 (2004); Pub. L. 112-142, § 2 (2012).

longstanding, unanimous interpretation by the IRS, DOL, and PBGC, even though it has had ample opportunity to do so. Congress has amended ERISA's definition section a dozen times,[4] and has incorporated or referenced the definition of "church plan" in more than a dozen provisions across the U.S. Code.[5]

B. Factual Background

1. Petitioner Advocate Health Care Network is a nonprofit corporation affiliated with the Evangelical Lutheran Church in America ("ELCA") and the United Church of Christ ("UCC"). App. 5a. Both the ELCA and UCC exert considerable control over Advocate—its Board of Directors cannot take any action without the approval of at least one director from each church. Dist. Ct. Dkt. 35-1 at 3, 6-7. The Metropolitan Chicago Synod of the ELCA and the Illinois Conference of the UCC have entered into Covenantal Agreements with Advocate, in which both churches "publicly acknowledge Advocate as integral to the

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[4] Pub. L. 99-272, § 11016(c)(1) (1986); Pub. L. 99-509, § 9203(b)(1) (1986); Pub. L. 99-514, § 1879(u)(3) (1986); Pub. L. 100-202, § 136(a) (1987); Pub. L. 101-239, §§ 7871(b)(2), 7881(m)(2)(D), 7891(a)(1), 7893(a), 7894(a)(1)(A), (2)(A), (3), (4) (1989); Pub. L. 101-508, § 12002(b)(2)(C) (1990); Pub. L. 102-89, § 2 (1991); Pub. L. 104-290, § 308(b)(1) (1996); Pub. L. 105-72, § 1(a) (1997); Pub. L. 109-280, §§ 611(f), 905(a), 906(a)(2)(A), 1104(c), 1106(a) (2006); Pub. L. 110-28, § 6611(a)(1), (b)(1) (2007); Pub. L. 110-458, § 111(c) (2008).

[5] Pub. L. 99-272, § 10001(b)(2) (1986); Pub. L. 99-514, § 1151(k)(4) (1986); Pub. L. 100-647, § 3011(a) (1988); Pub. L. 104-188, §§ 1456, 1461, 1462 (1996); Pub. L. 104-191, §§ 102, 402(a) (1996); Pub. L. 104-290, § 508 (1996); Pub. L. 105-34, §§ 1522, 1532 (1997); Pub. L. 105-200, § 401(f) (1998); Pub. L. 106-244, § 2 (2000); Pub. L. 107-16, § 659(a)(1) (2001); Pub. L. 108-203, § 422 (2004); Pub. L. 108-359, § 1 (2004); Pub. L. 109-280, § 865 (2006); Pub. L. 114-113, § 336 (2015).

ministry of the" church. Dist. Ct. Dkt. 35-8; Dist. Ct. Dkt. 35-9; *see* App. 5a. And the ELCA and UCC list Advocate as an "affiliated" or "related" organization in their annual directories. ELCA Yearbook 609-10 (2014); UCC Yearbook and Directory 875, 883-84 (2013). "The mission of Advocate Health Care is … rooted in [its] fundamental understanding of human beings as created in the image of God." *Mission, Values & Philosophy*, Advocate Health Care, http://goo.gl/Vf9Ktn.

Advocate now "operates twelve hospitals and more than 250 other inpatient and outpatient healthcare locations across northern and central Illinois, employing 33,000 people." App. 5a. To provide for its employees' retirement, Advocate sponsors a generous defined benefit pension plan (the "Plan"). Advocate requires employees to contribute nothing to their pensions. Such benefits are unusual in the private hospital industry, where only 16 percent of employees have access to a defined benefit pension plan at all.[6]

The Plan has operated as an ERISA-exempt church plan since at least 1980, when the exemption was amended. In 1991, Advocate's predecessor, Evangelical Health Systems, received a private letter ruling from the IRS affirming that the Plan was a church plan because, consistent with the 1983 General Counsel Memorandum, the Plan's participants are "employees of a church," and the Plan was main-

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[6] Bureau of Labor Statistics, Employee Benefits Survey, Retirement Benefits: Access, Participation, and Take-Up Rates Tbl. 2 (2015), http://www.bls.gov/ncs/ebs/benefits/2015/ownership/private/table02a.htm (hereinafter 2015 Employee Benefits Survey).

tained by a qualifying church-affiliated organization under § 1002(33)(C)(i). IRS PLR 9122078, 1991 WL 778797 (Mar. 7, 1991). In 1998, after the merger between Evangelical Health Systems and Lutheran General HealthSystem that created Advocate, the IRS issued a second PLR determining that Lutheran General's plan was also a church plan for the same reasons. IRS PLR 199904041, 1999 WL 36831 (Jan. 29, 1999). Later that year, Advocate merged the Lutheran General plan into the Plan.

C. Proceedings Below

1. In 2013, despite 30 years of administrative and judicial decisions confirming that church plans need not be established by churches, an alliance of two plaintiff firms began bringing putative class actions against nonprofit religious employers across the nation, contending that their pension plans were not church plans because they were not established by churches. As the firms themselves recently observed, these lawyers "have for years together developed and litigated the *innovative* theory of liability at issue here." Mot. To Consolidate Actions and To Be Appointed Interim Lead Plaintiff and Interim Co-Lead Counsel at 1, *Garbaccio v. St. Joseph's Hosp. et al.*, No. 16-cv-2740 (D.N.J. May 27, 2016) (emphasis added).

On March 17, 2014, represented by the same two law firms, respondents filed this putative class action against Advocate, one of its officers, and two of its benefits-related committees (all petitioners here). Respondents sought a declaration that Advocate's plan is not a church plan because it was not estab-

lished by a church.[7] Respondents also sought an injunction to bring the Plan in compliance with ERISA, damages, disgorgement, civil money penalties of up to $110 per class member per day for three separate claims, pre-judgment interest, costs, and attorneys' fees and expenses. Respondents also alleged—as the plaintiffs in the present onslaught of church plan litigation do in every case—that Advocate's plan was underfunded, but in fact Advocate's plan is fully funded. Advocate Health Care Network, Consolidated Financial Statements and Supplementary Information 35-42 (2015), http://goo.gl/FYpvH6. Respondents do not allege that they or any other participant in the Plan has been denied any financial benefit to which they are entitled.

On December 31, 2014, the district court denied Advocate's motion to dismiss. The court rejected Advocate's argument that the Plan is a church plan because it is maintained by a qualifying church-affiliated organization under § 1002(33)(C)(i). The court concluded that Advocate's plan was not a church plan because neither "a church [n]or an association of churches initially established [Advocate's] pension plan." App. 36a-37a. The court conceded that numerous courts "have come to the opposite conclusion," including the Fourth and Eighth Cir-

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[7] Respondents also alleged that Advocate's plan was not 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 benefits." 29 U.S.C. § 1002(33)(C)(i). The IRS, DOL, and PBGC have long agreed that a religious organization may satisfy the "principal purpose" requirement by creating a pension committee, as Advocate has done. The courts below did not rule on this aspect of respondents' complaint.

cuits and many district courts. App. 41a. The court then certified the case for interlocutory appeal, observing that "federal court decisions are all over the map on what is the correct interpretation." App. 53a.

3. The Seventh Circuit affirmed, holding that church plans must be established by churches. Although § 1002(33)(C)(i)'s text provides that "a plan *established and maintained* … by a church … includes a plan *maintained* by [a qualifying church-affiliated] organization," the court concluded that the provision "merely adds an alternative meaning to one of subsection (33)(A)'s two elements—[the] 'maintain' element—but does not change the fact that a plan must be established by a church." App. 11a. As a basis for its statutory analysis, the court relied prominently on the answer a lawyer for an unrelated hospital gave to a "hypothetical" question posed in a separate case, *Kaplan v. Saint Peter's Healthcare Sys.*, 810 F.3d 175, 181 (3d Cir. 2015), that had likewise held that church plans must be established by churches. App. 12a.

The court also reasoned that "no part" of the legislative history suggested that Congress intended to alter the church establishment requirement. App. 23a. The bill sponsor, however, explained that § 1002(33)(C)(i) was intended to resolve doubts about plans that were "established … by a pension board." 125 Cong. Rec. 10,052. The Seventh Circuit also acknowledged that the IRS has issued hundreds of letter rulings "to plans established by church-affiliated organizations," but the court found the government's views "not persuasive." App. 24a, 26a.

Over respondents' objection, the Seventh Circuit stayed its mandate pending the filing and disposition of this petition. App. 54a-55a.

REASONS FOR GRANTING THE PETITION

I. The Question Presented Is of Enormous and Recurring Consequence

In the last three years, plaintiffs' firms have filed 36 class actions against religious hospital systems across the country, asserting in each case that only a church can establish a church plan.[8] The lawsuits

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[8] *Chavies v. Catholic Health East*, No. 13-cv-01645 (E.D. Pa. Mar. 28, 2013) (60,000 employees); *Overall v. Ascension Health*, No. 13-cv-11396 (E.D. Mich. Mar. 28, 2013) (122,000 employees); *Rollins v. Dignity Health*, No. 13-cv-01450 (N.D. Cal Apr. 1, 2013) (60,000 employees); *Kaplan v. St. Peter's Healthcare System*, No. 13-cv-2941 (D.N.J. May 7, 2013) (number not alleged); *Medina v. Catholic Health Initiatives*, No. 13-cv-01249 (D. Colo. May 10, 2013) (78,000 employees); *Stapleton v. Advocate Health Care Network*, No. 14-cv-01873 (N.D. Ill. Mar. 17, 2014) (33,000 employees); *Owens v. St. Anthony Medical Center*, No. 14-cv-04068 (N.D. Ill June 2, 2014) (not alleged); *Lann v. Trinity Health Corp.*, No. 14-cv-02237 (D. Md. July 11, 2014) (56,000 employees); *Morris v. Daughters of Charity Health System*; No. 14-cv-04681 (N.D. Cal. Oct. 21, 2014) (8,800 employees); *Griffith v. Providence Health & Services*, No. 14-cv-01720 (W.D. Wash. Nov. 7, 2014) (73,000 employees); *Johnson-Brooks v. Advocate Health and Hospitals*, No. 15-cv-01081 (N.D. Ill. Feb. 3, 2015) (not alleged); *Tucker v. Baptist Health System, Inc.*, No. 15-cv-00382 (N.D. Ala. Mar. 3, 2015) (4,700 employees); *Carver v. Presence Health Network*, No. 15-cv-02905 (N.D. Ill. Apr. 2, 2015) (21,000 employees); *Kemp-DeLisser v. St. Francis Hospital and Medical Center*, No. 15-cv-1113 (D. Conn. July 21, 2015) (not alleged); *Boden v. St. Elizabeth Medical Center, Inc.*, No. 16-cv-00049 (E.D. Ky. Mar. 17, 2016) (8,500 employees); *Lupp v. Mercy Health*, No. 16-cv-441 (S.D. Ohio Mar. 30, 2016) (32,000 employees); *Beiermann v. SSM Health Care Corp.*, No. 16-cv-00460 (E.D. Mo. Apr. 4, 2016) (31,000 employees); *Feather v. SSM Health*, No. 16-cv-00393 (S.D. Ill. April 8, 2016) (31,000 employees); *Curtis v. Wheaton Franciscan*, No. 16-cv-04232 (N.D. Ill. April 11, 2016) (not alleged); *Hodges v. Bon Secours Health System, Inc.*, No. 16-cv-01079 (D.

filed to date alone involve benefit plans affecting nearly a million people. The Seventh and Third Circuits have now issued decisions, and church-plan appeals are pending before the Ninth and Tenth Circuits. *Rollins v. Dignity Health*, No. 15-15351 (9th Cir.); *Medina v. Catholic Health Initiatives*, No 16-1005 (10th Cir.). A case before the Sixth Circuit—which the district court decided against the plaintiff—settled before oral argument. *Overall v. Ascension Health*, No. 14-1735 (6th Cir.). Additional church plan class actions are currently pending in district courts within the Second, Third, Fourth,

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Md. April 11, 2016) (22,000 employees); *Miller v. Bon Secours Health System, Inc.*, No. 16-cv-01150 (D. Md. April 18, 2016) (22,000 employees); *Nicholson v. Franciscan Missionaries of Our Lady Health System*, No. 16-cv-00258 (M.D. La. April 21, 2016) (12,992 employees); *Jewett v. Franciscan Alliance, Inc.*, No. 16-cv-04589 (N.D. Ill. April 22, 2016) (14,600 employees); *Smith v. OSF Healthcare System, et al*, No. 16-cv-00467 (S.D. Ill. April 27, 2016) (16,000 employees); *Allen v. Iowa Health Systems d/b/a Unitypoint Health*, No. 16-cv-01132 (C.D. Ill. April 29, 2016) (30,701 employees); *Whaley v. Mercy Health*, No. 16-cv-00518 (S.D. Ohio May 3, 2016) (32,000 employees); *Bailey v. OSF HealthCare Sys.,* No. 16-cv-01137 (C.D. Ill. May 3, 2016) (18,127 employees); *Sanzone v. Mercy Health*, No. 16-cv-00478 (W.D. Okla. May 6, 2016) (40,000 employees); *Grasle v. Mercy Health*, No. 16-cv-00651 (E.D. Mo. May 10, 2016) (42,000 employees); *Cappello v. Franciscan Alliance*, No. 16-cv-00290 (N.D. Ind. May 12, 2016) (18,000 employees); *Garbaccio v. St. Joseph's Hospital and Medical Center*, No. 16-cv-02740 (D.N.J. May 13, 2016) (5,000 employees); *Barker v. St. Joseph's Healthcare System, Inc.*, No. 16-cv-02748 (D.N.J. May 16, 2016) (5,000 employees); *Butler v. Holy Cross Hospital*, No. 16-cv-05907 (N.D. Ill. June 6, 2016) (not alleged); *Brace v. Methodist Le Bonheur Healthcare*, No. 16-cv-02412 (W.D. Tenn. June 11, 2016) (12,100 employees); *Bowen v. Wheaton Franciscan Services, Inc.*, No. 16-cv-06782 (N.D. Ill. June 28, 2016) (17,000 employees); *Alban v. Mercy Health*, No. 16-cv-00726 (S.D. Ohio June 30, 2016) (not alleged).

Fifth, Sixth, Seventh, Eighth, Ninth, Tenth, and Eleventh Circuits. *Supra* n.8.

The pace of new filings is only accelerating—plaintiffs have filed 22 new complaints since the decision below. *Id.* These suits seek billions of dollars in retroactive liability and a wholesale upheaval in the administration of pension plans affecting religious employers and employees across the country. The consequences are likely irreversible. Some employers may be forced to eliminate their plans altogether and smaller organizations may collapse under the financial burden of retroactive liability, ERISA compliance, or both.

Just one of these cases alone might warrant certiorari. But an explosion of litigation of this magnitude in such an important and recurring area of ERISA, where national uniformity is paramount, plainly warrants this Court's review.

A. The Seventh and Third Circuits Upset Three Decades of Administrative Practice

1. The Seventh and Third Circuits upended the consistent, longstanding position of all three federal agencies Congress charged with enforcing ERISA. In so doing, the courts upset the settled expectations of hundreds, probably thousands, of church-affiliated ministries, which provide benefits to millions of current and former employees across the country. Those religious employers, many for decades, have relied on the agencies' established, unanimous administrative interpretation when designing their benefits programs.

Since 1983, the IRS, DOL, and PBGC have consistently informed these employers that their pension and welfare plans are exempt from ERISA, re-

gardless of whether a church established the plans. The IRS has issued more than 500 letter rulings to a vast array of religious employers large and small. In addition to the two rulings it issued expressly approving the church plan status of petitioner Advocate's plan, the IRS has issued rulings on the plans of religious universities,[9] schools,[10] old-age homes,[11] youth programs,[12] "a charitable day care center, school, and nursery,"[13] "a regional mental health facility,"[14] homes for "poor, destitute and homeless children,"[15] and an organization serving "people who are developmentally disabled."[16] The DOL has issued nearly 70 advisory opinions to a similarly broad spectrum of religious ministries. App. 64a-69a (listing opinions issued to hospitals, schools, elder care organizations, theological seminaries, and nursing homes, among others). The PBGC has confirmed that these organizations need not pay insurance premiums. *E.g.*, *Owens v. St. Anthony Med. Ctr., Inc.,* No. 14-cv-4068, 2015 WL 3819086, at *4 (N.D. Ill. June 18, 2015). These agencies have told religious employers that they may organize their pension programs around these administrative determinations. Rev. Proc. 2016-1, 2016-1 I.R.B. 1, § 11.01; ERISA Proc. 76-1, § 10.

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[9] *E.g.*, IRS PLR 9443043, 1994 WL 589289 (Oct. 28, 1994).

[10] *E.g.*, IRS PLR 9547048, 1995 WL 693655 (Nov. 24, 1995).

[11] *E.g.*, IRS PLR 9332045, 1993 WL 305015 (Aug. 13, 1993).

[12] *E.g.*, IRS PLR 9621046, 1996 WL 275682 (May 24, 1996).

[13] IRS PLR 9034047, 1990 WL 700178 (Aug. 24, 1990),

[14] IRS PLR 9323031, 1993 WL 196373 (June 11, 1993).

[15] IRS PLR 9442033, 1994 WL 576806 (Oct. 21, 1994).

[16] IRS PLR 9632018, 1996 WL 448646 (Aug. 9, 1996).

2. Countless other church-affiliated organizations have likewise reasonably relied on the agencies' settled interpretation. Before the current onslaught of litigation began in 2013, *every* court to consider the issue had held or assumed that church plans need not be established by churches. *E.g.*, *Lown v. Cont'l Cas. Co.*, 238 F.3d 543, 547 (4th Cir. 2001); *Chronister v. Baptist Health*, 442 F.3d 648, 653-54 (8th Cir. 2006); *Thorkelson v. Publ'g House of Evangelical Lutheran Church in Am.*, 764 F. Supp. 2d 1119, 1127 (D. Minn. 2011); *Ward v. Unum Life Ins. Co. of Am.,* No. 09-cv-431, 2010 WL 4337821, at *2 (E.D. Wis. Oct. 25, 2010); *Catholic Charities of Maine, Inc. v. City of Portland*, 304 F. Supp. 2d 77, 84-85 (D. Me. 2004). As one commentator has explained, "[f]or about 30 years, everyone thought they knew what a church plan was." Susan Katz Hoffman, *When is a Church Not a Church?* Kaplan v. St. Peter's Healthcare System, 24 ERISA Litig. Rep., No. 1, Feb. 2016, at 3.

The vast majority of benefit plans currently operated as church plans were not established by churches themselves. Of the hundreds of church plans described in IRS letter rulings, DOL advisory opinions, and judicial opinions, only a handful were established by a church. *See* IRS PLR 200326038, 2003 WL 21483121 (June 27, 2003); IRS PLR 9835028, 1998 WL 545377 (Aug. 28, 1998); IRS 8837061, 1988 WL 572737 (Sept. 16, 1988); IRS PLR 8447052, 1984 WL 268327 (Aug. 21, 1984).[17] Even plans established solely for clergy are often estab-

[17] Some plans were established by religious orders, *e.g.*, IRS PLR 8325131, 1983 WL 198887 (Mar. 25, 1983), which in 1977 the IRS remarkably did not consider the "church." *Supra* p.4.

lished not by the church itself but by pension boards. A pension plan for Baptist "ordained ministers," for example, "was established and maintained by the [Ministers and Missionaries Benefit Board]." *Coleman-Edwards v. Simpson*, No. 03-cv-3779, 2008 WL 820021, at *12 (E.D.N.Y. Mar. 25, 2008). Under the decision below, all of these plans, which may have been operating as church plans for decades, are suddenly not church plans.

3. This case is undeniably important, as the Seventh Circuit recognized when it stayed its mandate pending this petition. An appellate decision upsetting three decades of administrative practice by three federal agencies and the reliance interests of so many employers would warrant this Court's immediate review in any context. The Court has regularly granted certiorari in analogous or even less compelling circumstances. *E.g.*, *Household Credit Servs., Inc. v. Pfennig*, 541 U.S. 232 (2004) (granting certiorari where court of appeals rejected longstanding Federal Reserve Board interpretation); *Young v. Cmty. Nutrition Inst.*, 476 U.S. 974, 975 (1986) (FDA interpretation); *Morton v. Ruiz*, 415 U.S. 199, 201-02 (1974) (BIA interpretation); *see generally* Stephen M. Shapiro et al., Supreme Court Practice 269 (10th ed. 2013) (citing additional cases). But a decision upending three decades of consistent administrative practice by three federal agencies surely warrants this Court's review in the context of ERISA, a highly reticulated scheme where agency deference is at its apex. *Beck v. PACE Int'l Union*, 551 U.S. 96, 104 (2007); *United States v. Mead Corp.*, 533 U.S. 218, 235 (2001).

B. The Decisions Create Massive Upheaval and Irreversible Damage to the Administration of Pension Plans by Religious Ministries

1. Certiorari is additionally warranted because the consequences of the decision below and the Third Circuit's decision in *Saint Peter's* are not easily undone, if at all. "Predictab[ility]" is essential under ERISA. *Rush Prudential HMO, Inc. v. Moran*, 536 U.S. 355, 379 (2002). Absent this Court's intervention, however, church plans around the country will be left in a state of massive uncertainty. And plans with participants in the Seventh and Third Circuits may have to overhaul their benefit programs in costly, potentially irreversible ways—even if they have other participants in states within circuits that follow the traditional interpretation. For example, religious employers would have to restructure their participation, vesting, and accrual rules to comply with ERISA. *See* 29 U.S.C. §§ 1052, 1053, 1054; App. 4a (noting respondents' contention that Advocate's vesting rules are incompatible with ERISA). These changes would be complicated enough to accomplish unilaterally—they would create enormous expenses for which these nonprofit organizations have not planned or budgeted. But many participation, vesting, and accrual rules are subject to collective bargaining, and altering them would require *breaching* existing union contracts and negotiating new ones. And to retroactively amend these rules to extend benefits to newly eligible employees could be literally impossible, because some employees are deceased or long gone.

Affected religious employers would also have to revamp investment strategies to eliminate any religious or socially responsible investment criteria that

might conflict with ERISA's prudent-investor standard. Dep't of Labor, *Interpretive Bulletin Relating to the Fiduciary Standard Under ERISA in Considering Economically Targeted Investments*, 80 Fed. Reg. 65135 (2015) (explaining that ERISA fiduciaries cannot use socially responsible investment criteria unless the investment is "economically equivalent" to the competing investments that are incompatible with religious or other criteria).

Defined benefit plans would also have to begin paying premiums to the PBGC, which could come out of the benefits available to plan participants. 29 U.S.C. § 1301 et seq. The PBGC is massively underfunded and has imposed multiple multi-billion-dollar premium increases in recent years—increases that nonprofits like Advocate would pay even though their plans are fully funded.[18] Together, the "financial strains" from these changes "may lead to corporate restructurings, layoffs, mergers or bankruptcies." Mark Casciari & Jennifer Neilsson, *Thoughts on Church Plan Status After Kaplan v. Saint Peter's Healthcare System*, ERISA & Employee Benefits Blog, Jan. 13, 2016, http://goo.gl/ZjwdU8.

Furthermore, the Seventh and Third Circuit decisions could force some church-affiliated employers to abandon defined benefit plans in favor of defined contribution plans that shift investment risks from the employer to individual employees. The percentage of private U.S. workers who participate in defined benefit plans has steadily decreased from 38%

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[18] U.S. Chamber of Commerce, Increasing Pension Premiums: Impact on Jobs and Economic Growth, at 3 (May 2014), https://goo.gl/z801Z0.

in 1980 to just 15% in 2015.[19] One reason for this downward trend is that, in part because of ERISA compliance costs, defined benefit plans are more expensive for employers than defined contribution plans. "One study found that increased government regulation was the major factor in 44 percent of [defined benefit] plan terminations in the late 1980s."[20] "Another study noted that from 1980 through 1996, government regulation increased the administrative costs of [defined benefit] plans by twice as much as those of similar-sized [defined contribution] plans."[21]

Church-affiliated employers thus have been able to offer defined benefit plans in part because their longstanding exemption from ERISA reduces costs. But if their plans no longer qualify as church plans, employers will likely conclude that offering traditional defined benefit plans no longer makes sense.

2. And if the unplanned cost of future ERISA compliance were not enough to shut pension plans or religious charities down, recovery of even a fraction of what plaintiffs seek in these cases could. Advocate is a nonprofit health care ministry that reasonably relied on express guidance from the IRS determining that its plan was an exempt church plan. Yet respondents seek billions of dollars in retroactive penalties. Respondents allege that Advocate owes 33,000 putative class members $110 a day for every

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[19] *Compare* Dep't of Labor, Private Pension Plan Bulletin, Winter 2001-2002, Tbl. E4a, https://goo.gl/BwjFsW, *with* 2015 Employee Benefits Survey, *supra*, at Tbl. 2.

[20] Barbara A. Butrica et al., The Disappearing Defined Benefit Pension and Its Potential Impact on the Retirement Incomes of Baby Boomers, 69 Soc. Security Bull. no. 3, 1 (2009).

[21] *Id.*

day that Advocate did not provide benefit statements or funding notices that the IRS told Advocate it was not required to provide. Complaint, Prayer for Relief §§ D-F. And respondents seek that amount for three separate violations. *Id.* Stated differently, for just one year, respondents seek over $3.9 billion in penalties.

And like all sponsors of ERISA-exempt church plans, Advocate is a nonprofit entity. It is also the largest health system in Illinois, and in 2014, it provided over $652 million in community benefits. Advocate Health Care, 2014 Community Benefit Report, http://goo.gl/QVtWIf. Allowing this gotcha litigation to proceed would come at the expense of destitute citizens of Illinois who rely on the free care and other free services that Advocate provides.

II. The Courts of Appeals Are Divided Over the Scope of the Church Plan Exemption

Certiorari is all the more warranted because the circuits are divided over whether church-affiliated organizations may establish church plans. Contrary to the interpretation adopted by the Third Circuit and the court below, the Fourth and Eighth Circuits have concluded that there is no church establishment requirement.

1. In *Lown v. Continental Casualty Co.*, the Fourth Circuit held that "a plan established by a corporation associated with a church can still qualify as a church plan." 238 F.3d at 547. *Lown* concerned a claim for denial of benefits asserted by a former employee of a Baptist hospital system against the insurer of her long-term disability plan. *Id.* at 546. The employee initially filed in state court, but the insurer removed, and the Fourth Circuit affirmed fed-

eral jurisdiction under ERISA, holding that the plan was not an exempt church plan. *Id.* at 547-48. The court explained that a plan established by an organization that is not a church "can still qualify as a church plan" if the plan is maintained by a qualifying church-affiliated organization under § 1002(33)(C)(i). *Id.* at 547. But the plan at issue could not satisfy § 1002(33)(C)(i) because the hospital system had dissociated from the Southern Baptist Convention and therefore was not church-affiliated. *Id.* at 548.

The Eighth Circuit reached a similar conclusion in *Chronister v. Baptist Health*, 442 F.3d 648. There, again, the former employee of a Baptist hospital system sued her former employer and the insurer of her long-term disability plan for denial of benefits. *Id.* at 650. As in *Lown*, the employee initially filed in state court, but the defendants removed, and the Eighth Circuit found federal jurisdiction under ERISA. *Id.* at 650-54. Like the Fourth Circuit, the Eighth Circuit recognized that the plan at issue, though not established by a church, would be a church plan if it were maintained by a qualifying church-affiliated organization. *Id.* at 651-52. But as in *Lown*, the plan could not meet that requirement because the hospital system had dissociated from the relevant church. *Id.* at 652.

2. In contrast to these decisions by the Fourth and Eighth Circuits, the Seventh Circuit below rejected Petitioners' argument that "a plan established by a church-affiliated organization … [may] qualify as a church plan under ERISA." App. 3a. The court did not deny that that holding conflicts with *Lown*'s statement that "a plan established by a corporation associated with a church can still qualify as a church

plan." App. 16a. Instead, the Seventh Circuit minimized that statement as "dicta," because the Fourth Circuit "ultimately decided that the exemption did not apply because the hospital was not associated with or controlled by a church." *Id.*

In *Kaplan v. Saint Peter's Healthcare System*, the Third Circuit likewise concluded that ERISA "limit[s] the church plan exemption to only those plans established by a church." 810 F.3d at 181. But the court candidly acknowledged that in *Lown*, the Fourth Circuit "came to the … conclusion" that "entities that are not themselves churches … can establish exempt church plans." *Id.* at 178. Like the Seventh Circuit, however, the Third Circuit dismissed that conclusion as "*dictum*." *Id.*

3. The 2-2 split over whether church-affiliated organizations may establish church plans warrants this Court's review. Contrary to the Seventh and Third Circuits' statements, the relevant portions of *Lown* and *Chronister* were not superfluous dicta. "[I]t is not only the result but also those portions of the opinion necessary to that result by which [courts] are bound." *Seminole Tribe of Florida v. Florida*, 517 U.S. 44, 67 (1996). *Lown* and *Chronister* only reached the question of whether the entities at issue were associated with a church because the Fourth and Eighth Circuits concluded that church plans need not be established by churches.

Importantly, district courts within the Fourth and Eighth Circuits regard *Lown* and *Chronister* as binding, and thus the split over the scope of the church plan exemption is already leading to inconsistent administration of the law across the country. Based on *Lown*, a district court within the Fourth Circuit recently ruled that ERISA "permits an organ-

ization that is 'controlled by or associated with a church …' to establish a 'church plan.'" *Lann v. Trinity Health Corp.*, No. 14-cv-2237, 2015 WL 6468197, at *1 (D. Md. Feb. 24, 2015); *see* Transcript of Motion Hearing at 40, *id.*, dkt. 72 (district court explaining that "the Fourth Circuit has pretty much put [a church-establishment requirement] to rest").

A district court within the Eighth Circuit reached the same conclusion based on *Chronister*, noting that *Chronister* "voiced no concern as to whether the plan was established … by a church." *Thorkelson*, 764 F. Supp. 2d at 1127. Numerous other district courts have relied on *Lown* and *Chronister* in concluding that plans not established by churches may qualify as church plans. *E.g.*, *Overall v. Ascension*, 23 F. Supp. 3d 816, 827 (E.D. Mich. 2014) (quoting *Lown*); *Ward*, 2010 WL 4337821, at *1-2 (discussing *Lown* and *Chronister*). But courts within the Seventh and Third Circuits now will be compelled to reach contrary results.

And the circuit split is especially intolerable because many religious organizations operate in multiple states. These organizations are now facing suits in the Seventh or Third Circuits—even where they are headquartered in circuits following the traditional interpretation—and face the possibility of inconsistent judgments.[22] The prospect of circuit courts coming to differing conclusions regarding the same plan, this Court has recognized, is incompatible with ERISA's goal of national uniformity. *Conkright v.*

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[22] *See, e.g.*, *Feather v. SSM Health*, No. 16-cv-00393 (S.D. Ill. April 8, 2016) (suit in Seventh Circuit against religious organization headquartered in the Eighth Circuit).

Frommert, 559 U.S. 506, 520 (2010). Only this Court can resolve the division.

III. ERISA Does Not Require a Church To Establish an Exempt Church Plan

The text, structure, purpose, and history of the church plan exemption, as well as the constitutional avoidance canon, agency deference, and congressional ratification, all point in one direction: church plans need not be established by churches.

1. The text of the church plan exemption unambiguously forecloses a church-establishment requirement. Section 1002(33)(A) provides that "[t]he term 'church plan' means a plan established and maintained … by a church." Section 1002(33)(C)(i) in turn provides that "a plan established and maintained … by a church"—*i.e.*, a church plan—"includes a plan maintained by [a qualifying] organization … controlled by or associated with a church." Subparagraph C thus defines the phrase "established and maintained … by a church" to include plans maintained by certain church-affiliated organizations—whether or not they were established by a church. As one district court explained, "if A is exempt and A includes C, then C is also exempt." *Overall*, 23 F. Supp. 3d at 828.

Allowing church-affiliated organizations to establish church plans avoids turning the words "established and" in the beginning of subparagraph C(i) into mere surplusage. Had Congress wanted to permit non-church organizations to maintain but not establish church plans, subparagraph C(i) would provide: "[a] plan ~~established and~~ maintained … by a church … includes a plan maintained by [a qualifying

church-affiliated] organization." But that is not what the provision says.

The Seventh and Third Circuits ignored the superfluity their interpretation creates. The decision below instead reasoned that "[i]f a plan could qualify solely on the basis of being maintained by a church-affiliated organization, the 'established by a church' requirement of subsection (33)(A) would become meaningless." App. 11a; *accord Kaplan*, 810 F.3d at 181. Not so. Subparagraph A plays the essential role of defining the term "church plan" as "a plan established and maintained … by a church." Without that definition, subparagraph C(i)'s explanation of what "[a] plan established and maintained … by a church includes" would lack a referent. And subparagraph A makes clear that where a plan is maintained by a church itself rather than a qualifying church-affiliated organization, the plan can still be a church plan. Subparagraphs A and C(i) thus provide alternative, complementary ways to qualify as a church plan.

The Seventh Circuit also relied on the *expressio unius* canon. *See* App. 12a-13a. But Congress's use of "established and maintained" in subparagraph A and the beginning of subparagraph C(i), when juxtaposed with "maintained" in the latter part of C(i), only underscores that plans maintained by qualifying church-affiliated organizations are church plans regardless of whether they were established by churches.

The Seventh Circuit also relied on a purported concession made in *Kaplan*. There, the Third Circuit posed a hypothetical about a statute offering benefits to any person "who is disabled and a veteran," which Congress later amends to provide that "a person who

is disabled and a veteran includes a person [who served] in the National Guard." App. 12a (quoting *Kaplan*, 830 F.3d at 181). "[A]ll parties" in *Kaplan* "conceded" that a non-disabled National Guardsman could not receive benefits under such a statute, which the Third and Seventh Circuits likened to the church plan exemption. App. 12a. But in fact, as a textual matter, non-disabled Guardsmen should be entitled to benefits. That is especially so if the three relevant federal agencies had so interpreted the statute, and had been providing benefits to non-disabled Guardsmen for over thirty years. And the only reason a reader might initially think otherwise is that the court's analogy is irredeemably slanted—among other things, it relies on an unstated premise that Congress could not plausibly have intended to offer disability benefits to non-disabled individuals. By contrast here, Congress had good reasons to exempt plans maintained by qualifying church-affiliated organizations regardless of whether they were established by churches. *Infra* pp.28-33. And such plans have received the exemption for over thirty years, based on contemporaneous interpretations by the agencies involved in the 1980 amendment.

2. The history and purpose of the 1980 amendments reinforce that church plans need not be established by churches. Congress enacted § 1002(33)(C)(i) to resolve doubts regarding plans that were not only maintained but also *established* by pension boards. As Senator Talmadge explained, the 1974 exemption left uncertain whether such a plan "is *established* by a church, as it must be [under the 1974 statute], or by a pension board"—*i.e.*, an affiliated organization that is not itself the church. 125 Cong. Rec. 10,052 (emphasis added). Section 1002(33)(C)(i) answers that question by declaring

that a "plan maintained by a pension board" or the like "*is a church plan*," 126 Cong. Rec. 20,245 (1980) (emphasis added), whether established by a church or not. *Accord* 124 Cong. Rec. 12,107 (1978) ("A plan or program funded or administered through a pension board … will be considered a church plan.").

Nothing in the history or purpose of the 1980 amendments supports a church-establishment requirement. The amendments indisputably permit church plans to cover employees of church-affiliated organizations, 29 U.S.C. § 1002(33)(C)(ii)-(iii), and to be maintained by church-affiliated organizations, *id.* § 1002(33)(C)(i). Congress had no reason to make church plan status turn on whether the church or the church-affiliated organization established the plan. In many denominations, enlisting a specific church to establish a plan would be impossible. *Infra* p.32. A church-establishment requirement would only needlessly burden churches and their affiliated organizations, divert money from their religious mission, and offer no added protection to employees—many of whom would join the plan long after establishment. Tying church plan status to the maintaining organization alone was eminently "sensible," since "the status of the entity which currently maintains a particular pension plan bears more relation to Congress' goals in enacting ERISA and its various exemptions, than does the status of the entity which established the plan." *Rose v. Long Island R.R. Pension Plan*, 828 F.2d 910, 920 (2d Cir. 1987).

Ignoring Senator Talmadge's express statement regarding plans *established* by pension boards, the Seventh Circuit reasoned that Congress required church plans to be established by churches because, if "no church had established those … plans, there

w[ould be] no church to accept responsibility for the fate of the participants' retirement benefits." App. 17a-18a. But the court never grappled with what "establishing" a church plan actually entails, or what obligations it would create. The court offered no authority for the notion that a church that "established" a church plan for the employees of an affiliated organization would bear financial "responsibility" for those employees' benefits. Petitioners know of no authority; nor have respondents cited any.

The Seventh Circuit asserted that the amicus briefs were "replete with examples" of hospitals that acquired church plan status and then left their employees with underfunded plans, App. 17a, but the cited amicus briefs identified a grand total of three examples. And there is no indication that imposing a church establishment requirement would have ensured the solvency of any of the three plans. Indeed, church agencies or church ministries often have greater resources than individual churches.

The Seventh Circuit pointed to Congress's rejection of an earlier version of the 1980 amendment, under which § 1002(33)(C)(i) would have provided that "[a] plan established and maintained … by a church includes a plan *established and* maintained by [a qualifying church-affiliated] organization." App. 20a. But that earlier version just confirms that from the beginning, Congress was concerned about plans that were not only maintained but also *established* by pension boards. The obvious problem with the earlier version is that it would have excluded mixed plans established by churches but maintained by affiliated organizations—precisely the plans the Seventh Circuit claims Congress *intended* to exempt.

3. Allowing church-affiliated organizations to establish church plans also avoids grave constitutional doubts. When Congress amended the exemption in 1980, it recognized that the original 1974 exemption discriminated against "congregational" denominations, in which local churches are independent and autonomous. 125 Cong. Rec. 10,052; 124 Cong. Rec. 12,107. Judaism and most Protestant religions are congregational, for example, while the Catholic Church is hierarchical. Then as now, congregational denominations typically formed independent organizations—separate from any individual church, but controlled by or associated with the denomination as a whole—to establish, fund, and administer pension plans for multiple local churches and affiliated agencies. *Id.* Referring expressly to the 1974 statute's church-establishment requirement, the amendment's sponsor explained that the "requirement also points up the inapplicability of the church plan definition to congregational churches." 125 Cong. Rec. 10,052. The amendment removed the "statutory cloud" over plans affiliated with those denominations. *Id.*

Requiring church plans to be established by churches themselves thus would resurrect the problem Congress sought to solve, forcing members of congregational denominations (like petitioner here) either to radically reorganize their pension programs, or to forgo their exemption from ERISA. But "religious freedom encompasses the power of religious bodies to decide for themselves, free from state interference, matters of church government as well as those of faith and doctrine." *Serbian E. Orthodox Diocese for U.S. of Am. & Can. v. Milivojevich*, 426 U.S. 696, 721-22 (1976) (quotation marks and brackets omitted). And "[t]he clearest command of the Establishment Clause is that one religious denomina-

tion cannot be officially preferred over another." *Larson v. Valente*, 456 U.S. 228, 244 (1982).

The Seventh Circuit dismissed these constitutional concerns because "[t]he church plan definition … is available to all churches of all religious denominations and structures," so long as a church establishes the plan. App. 28a. That entirely misses the point. In congregational denominations, there is no single "church" that can "establish" a plan for the employees of myriad independent local congregations and affiliated organizations. As for the court's analogy to tax exemptions that "benefit religious denominations that own a great deal of property," App. 28a, churches' internal structure and governance is constitutionally protected. The size of their property holdings is not.

And for hierarchical and congregational denominations alike, the church-establishment requirement would throw the government and religious employers right back into the pre-1980, constitutionally dubious morass, in which government bureaucrats decided on a case-by-case basis whether a particular organization was a "church." *Supra* pp.4-5. Under that regime, the IRS asked whether the organization was primarily focused on prayer, and concluded that Catholic sisters are not the "church"—the very conclusion that prompted Congress to amend the statute. IRS Gen. Couns. Mem. 37,266, 1977 WL 46200, at *4-5. The decision below would resurrect that regime, creating impermissible, and unnecessary, government entanglement with religion. Indeed, many religious organizations facing the current onslaught of church plan lawsuits have contended in the alternative that their plan was in fact established by a church. *E.g.*, Brief for Defendants-Appellants at 43-

52, *Rollins v. Dignity Health et al.*, No. 15-15351 (9th Cir. filed July 6, 2015) (arguing that congregations of Catholic women religious established Dignity Health's plan).

The Seventh Circuit concluded that the government's (and petitioners') interpretation of the church plan exemption creates the same problem, App. 26a, but that is incorrect. To be sure, under any interpretation, the organization that maintains the plan must be "controlled by or associated with" a church. 29 U.S.C. § 1002(33)(C)(i). But the statutory test for association is not exacting, requiring only that the organization "share[] common religious bonds and convictions with [a] church." *Id.* § 1002(33)(C)(iv). Petitioners are unaware of any case presenting a dispute over whether the entity with which an organization claims association is in fact a church. For example, Advocate is associated with the UCC and the ELCA, and respondents have never disputed that those organizations are churches.

And Congress passed the 1980 amendment because it recognized that "[c]hurch agencies are, in fact, part of the churches" and deserve equal treatment for purposes of ERISA. 125 Cong. Rec. 10,052. By upsetting that principle, the Third and Seventh Circuit decisions raise grave constitutional concerns. "The prospect of church and state litigating in court about what does or does not have religious meaning touches the very core of the constitutional guarantee against religious establishment." *New York v. Cathedral Acad.*, 434 U.S. 125, 133 (1977). "[I]t is a significant burden on a religious organization to require it, on pain of substantial liability, to predict which of its activities a secular court will consider religious." *Corp. of Presiding Bishop of Church of Jesus*

Christ of Latter-day Saints v. Amos, 483 U.S. 327, 336 (1987).

4. It was inappropriate for the court to cast aside the consistent, longstanding, unanimous interpretation of all three responsible federal agencies. App. 25a. The administrative interpretation "involve[s] the contemporaneous construction of a statute and … ha[s] been in long use." *Davis v. United States*, 495 U.S. 472, 484 (1990). "ERISA is a comprehensive and reticulated statute," *Hughes Aircraft Co. v. Jacobson*, 525 U.S. 432, 447 (1999) (quotation marks omitted), and the agencies possess "specialized experience … on the subtle questions" in this "highly detailed" regulatory scheme, *Mead*, 533 U.S. at 235.

Finally, Congress has ratified the agencies' position by repeatedly revisiting § 1002(33) and § 414(e) without disturbing the longstanding administrative interpretation. *Cottage Sav. Ass'n v. Comm'r*, 499 U.S. 554, 561 (1991). Congress has incorporated the church plan definition into more than a dozen provisions across the U.S. Code, and is "presumed to have had knowledge of the interpretation given to the incorporated law." *Lorillard v. Pons*, 434 U.S. 575, 581 (1978); *supra* n.5. Congress also has repeatedly amended ERISA's definition section in general, and the church plan definition in particular, without altering § 1002(33)(C)(i), which is "persuasive evidence that the [administrative] interpretation is the one intended by Congress." *CFTC v. Schor*, 478 U.S. 833, 846 (1986) (quotation marks omitted); *supra* n.4.

* * * * *

This Court should grant review now to provide the lower courts and religious employers the clarity they desperately require over this important recur-

ring question of ERISA coverage. While the Court could call for the views of the Solicitor General, all three federal agencies have already weighed in for decades, and the Solicitor General can set forth his views at the merits stage. Unless and until this Court acts, lower courts around the country will be saddled with unnecessary litigation and confusion over ERISA's church plan exemption. And in the meantime, delaying this Court's review exposes religious nonprofit ministries all over the country that reasonably relied on settled law to burdensome litigation, devastating uncertainty over their continuing legal obligations, and the risk of adverse judgments imposing crippling liability and forcing potentially irrevocable changes to their pension plans.

CONCLUSION

The petition for certiorari should be granted.

Respectfully submitted.

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APPENDIX

APPENDIX A

IN THE UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

[Filed 03/17/2016]

No. 15-1368

MARIA STAPLETON, ET AL.,

Plaintiffs-Appellees,

v.

ADVOCATE HEALTH CARE NETWORK,
AN ILLINOIS NON-PROFIT CORPORATION, ET AL.,

Defendants-Appellants.

Appeal from the United States District Court for the Northern District of Illinois, Eastern Division.
No. 1:14-cv-01873 – EDMOND E. CHANG, *Judge*.

ARGUED SEPTEMBER 18, 2015 –
DECIDED MARCH 17, 2016

Before BAUER, KANNE, and ROVNER, *Circuit Judges*.

ROVNER, *Circuit Judge*. The Employee Retirement Income Security Act (ERISA) protects employees from unexpected losses in their retirement plans by setting forth specific safeguards for those employee plans. The Act, however, exempts church plans from those requirements. This case explores the question that has

been brewing in the lower federal courts: whether a plan established by a church-affiliated organization, such as a hospital, is also exempt from ERISA's reach. We conclude that it is not.

I.

In response to several highly publicized private pension plan failures, Congress enacted ERISA in 1974, with the goal of protecting employees' retirement benefits and ensuring that employees would receive the retirement benefits that employers had promised them and upon which they had counted. Before ERISA, employers who sponsored pension plans were not required to ensure that they were funded adequately, stand behind them if they failed, or provide insurance to protect recipients' benefits. As a result, some pension plans failed, leaving employees without the pensions they had spent their careers building. Congress recognized that existing state and common law protections failed to sufficiently protect employee retirement security and consequently, enacted ERISA. 29 U.S.C. § 1001 *et. seq*. ERISA protects employees through a number of safeguards including minimum funding and vesting requirements, insuring plan benefits through the Pension Benefit Guarantee Corporation and requiring certain reporting, disclosures, and fiduciary responsibilities. *See, e.g.*, 29 U.S.C. §§ 1083, 1053, 1021-1026, 1104-1112, 1307, 1308, 1322. Those protections increase the cost of running a pension plan, on the one hand, but, on the other hand, protect employees from losing savings meant for their retirement years from either intentional mishandling of funds or innocent mismanagement.

Because of the broad protective goals of ERISA, Congress carved out only narrow exemptions for

employee-benefit plans, including those for churches whose plans were excused from regulation in order to prevent excessive government entanglement with religion.[1] Thus a church plan is exempt from ERISA regulation. But the question presented in this case is: does a plan established by a church-affiliated organization, like the defendant here, Advocate Health Care Network, qualify as a church plan under ERISA?[2]

This same question is springing up across the country and although the district courts have heretofore been divided with no rulings from the circuit courts, the Third Circuit, just a short while ago, became the first circuit court to weigh in on the debate, siding with the district court in this case below that a church-affiliated organization such as Advocate cannot establish an ERISA-exempt plan. *Kaplan v. St. Peter's Healthcare Sys.*, 810 F.3d 175 (3d Cir. 2015). In addition to the district court below and the Third Circuit, the court in *Rollins v. Dignity Health*, 19 F. Supp. 3d 909, 917 (N.D. Cal. 2013), *appeal filed*, No. 15-15351 (9th Cir. Feb. 26, 2016), has come to the same conclusion. On the other hand, several district courts have recently ruled that plans established by church-affiliated agencies can indeed qualify for the ERISA church plan exemption. *See, e.g.*, *Lann v. Trinity Health Corp.,* No. 8:14-cv-02237, 2015 WL 6468197, at *1 (D. Md. Feb. 24, 2015); *Medina v. Catholic Health Initiatives*, No. 13-CV-01249, 2014

[1] Congress used the term "church plan" in enacting ERISA, but the exemption, of course, also applies to mosques, synagogues, temples, meeting houses, and all other houses of worship.

[2] We assume, for the time-being, that Advocate is indeed a church-affiliated organization—a question we discuss below, but need not resolve in this litigation. *See* note 5, *infra*.

WL 4244012, at *2 (D. Colo. Aug 26, 2014) [3]; *Overall v. Ascension*, 23 F. Supp. 3d 816, 829 (E.D. Mich. 2014). Today this Circuit weighs in on the debate, siding with our colleagues on the Third Circuit.

The plaintiffs, Maria Stapleton, Judith Lukas, Sharon Roberts, and Antoine Fox are former and current Advocate employees with vested claims to benefits under the Advocate retirement plan. They have brought their complaint as a proposed class action on behalf of all participants or beneficiaries of the Advocate plan. The plaintiffs allege that Advocate has not maintained its pension plan according to the standards set forth by ERISA, 29 U.S.C. § 1001 *et. seq.*, and thus has breached its fiduciary duty and harmed the plan's participants in the following way: by requiring an improperly long period of five years of service to become fully vested in accrued benefits; failing to file reports and notices related to benefits and funding; funding the plan at insufficient levels; neglecting to provide written procedures in connection with the plan; placing the plan's assets in a trust that does not meet statutory requirements; and failing to clarify participants' rights to future benefits. The plaintiffs argue in the alternative that if Advocate

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[3] The magistrate judge in *Medina v. Catholic Health Initiatives*, No. 13-cv-01249, 2014 WL 3408690 (D. Colo. July 9, 2014) also agreed with the conclusion we reach, but her recommendation was rejected by the district court judge in Medina v. Catholic Health Initiatives, No. 13-cv-01249, 2014 WL 4244012 (D. Colo. Aug. 26, 2014). We side with the decision of the magistrate judge who carefully dissected the plain language of the statute and concluded, as we do, that "in order to qualify as a church plan under ERISA, a benefit plan must be established by a church or a convention or association of churches" rather than the perfunctory decision of the district court judge who dismissed the plain language as a mere "term of art" without further analysis.

successfully evades liability under the church plan exemption, that this provision of ERISA is void as an unconstitutional violation of the First Amendment's prohibition on state establishment of religion.

Advocate operates twelve hospitals and more than 250 other inpatient and outpatient healthcare locations across northern and central Illinois, employing 33,000 people and generating $4.6 billion in annual revenue. Advocate maintains a non-contributory, defined-benefit pension plan that covers substantially all of its employees. Advocate's predecessor established the plan and Advocate maintains it now. Advocate is responsible for funding the plan and has the power to continue, amend, or terminate the plan. Advocate does not fund, insure, or administer the funds in compliance with all of the terms of ERISA as it believes that it is exempt from complying with those provisions. It goes without saying that Advocate is not a church. Nor was its predecessor. It formed in 1995 as a 501(c)(3) non-profit corporation from a merger between two health systems—Lutheran General HealthSystem and Evangelical Health Systems. Today, Advocate is affiliated with both the Metropolitan Chicago Synod of the Evangelical Lutheran Church in America and the Illinois Conference of the United Church of Christ, but it is not owned or financially supported by either church. It is, however, a party to contractual relationships with them, in which they "affirm their ministry in health care and the covenantal relationship they share with one another." There is no requirement that Advocate employees or patients belong to any particular religious denomination, or uphold any particular religious beliefs.

Before the district court, the plaintiffs sought a declaration that the Advocate plan is a benefits plan subject to the regulations of ERISA, or in the alternative, a declaration that a church plan exemption is unconstitutional. They also sought an injunction requiring Advocate to reform the plan to comply with ERISA's requirements and an award of civil penalties, and damages. Advocate moved to dismiss the complaint under Federal Rules of Civil Procedure 12(b)(6) and 12(b)(1), arguing that its plan falls within the church plan exemption[4].The district court denied the defendants' motion, holding that the plan "is not entitled to ERISA's church plan exemption as a matter of law" because the statutory definition required a church plan to be established by a church. D. Ct. Order at 20 (R. 64, p.20).

II.

Advocate claims that, because the plan is a church plan and thus exempt from ERISA, the plaintiffs have failed to state a claim upon which relief can be granted and the complaint must be dismissed pursuant to Federal Rule of Civil Procedure 12(b)(6). In order to survive this challenge, the complaint must contain sufficient factual matter, accepted as true, to "state a claim to relief that is plausible on its face." *Ashcroft v. Iqbal*, 556 U.S. 662, 678 (2009) (*quoting Bell Atl. v. Twombly*, 550 U.S. 544, 570 (2007)). The court must

[4] Although Advocate premised its motion to dismiss on both a failure to state a claim under Rule 12(b)(6) and a lack of subject matter jurisdiction under 12(b)(1), the district court made short order of the claim under 12(b)(1) noting that "[t]o ask whether a federal law like ERISA reaches a certain actor or conduct in the first place is itself a merits question, not a jurisdictional one. D. Ct. Order at 5 (R. 64, p.5) (*citing Morrison v. Nat'l Australia Bank Ltd.,* 561 U.S. 247, 254 (2010)).

accept as true the complaint's factual allegations and draw reasonable inference in the plaintiffs' favor. *Ashcroft v. Al-Kidd*, 131 S. Ct. 2074, 2079 (2011). We review a decision denying a motion to dismiss de novo. *Bonte v. U.S. Bank, N.A.*, 624 F.3d 461, 463 (7th Cir. 2010).

Although ERISA does indeed broadly protect the interests of participants in employee benefit plans, Congress specifically exempted certain types of plans from the scope of ERISA, including those set up by federal, state, local or tribal governments, 29 U.S.C. §§ 1002(32), 1003(b)(1), and any "church plan," 29 U.S.C. § 1003(b)(2), the latter of which is at issue here.

A.

The sole question in this case is whether Advocate's plan is a church plan as defined by ERISA. To answer this question we turn, as we do in all cases of statutory construction, to the language of the statute—in this case, to the definitions of an ERISA church plan contained in subsection (33)(A) and subsection (33)(C)(i) of the statute. 29 U.S.C. §§ 1002(33)(A), (33)(C)(i). *See, e.g. In re B.R. Brookfield Commons No. 1 LLC*, 735 F.3d 596, 598 (7th Cir. 2013) (directing courts to turn first to the statutory language). Where Congress's intent is clear from that language, we must give it effect. *Rush Univ. Med. Ctr. v. Burwell*, 763 F.3d 754, 759 (7th Cir. 2014).

Subsection (33)(A) of ERISA defines a church plan as a "plan established and maintained" by a church. 29 U.S.C. § 1002(33)(A). In short, two separate elements must both be met for the exemption to apply: (1) a church must first create or establish the plan and then (2) maintain the plan.

If the statute stopped there, Advocate would clearly lose, as the plan was not established by a church. It is uncontroverted that Advocate (or, more precisely, its predecessors) established the plan and that it is not (and the predecessors were not) a church. Advocate, however, argues that a later part of the statute, subsection (33)(C), enlarges the definition of a church plan. That section states as follows:

> (C) For purposes of this paragraph—
>
> (i) *A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches* **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 benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

29 U.S.C. § 1002(C)(i) (all emphases supplied).

For purposes of clarity in this opinion we can divide this paragraph of (33)(C)(i) into the following three parts, which we address out of order to help isolate the issue in this case.

- **The (33)(A) definition of a church plan.** The first part, which we have italicized above, is essentially identical to the definition of a "church plan" in subsection (33)(A). In other words, subsection (33)(C)(i) repeats (33)(A), reminding us that a "church plan"

means a plan established and maintained by a church. Thus the italicized portion of subsection (33)(C)(i) can be simplified by saying "a church plan . . . ."

- **The church-affiliated organization language.** The final and underlined portion of the subsection simply defines which types of organizations are church-affiliated organizations and thus qualified to run and maintain an ERISA plan. This portion of the subsection is not at issue and we will simply refer to these organizations as "church-affiliated organizations."

- **The controverted language.** The language we have placed in bold above—"**includes a plan maintained by an organization**"—forms the heart of the dispute.

If we use the linguistic simplifications we describe in the bullet points above, leaving intact the controverted language, the whole subsection reads as follows: "A church plan includes a plan maintained by a church-affiliated organization."

Advocate interprets this language as expanding the definition of church plan so that if an otherwise qualifying organization simply *maintains* the plan, it has fully satisfied all of subsection (33)(A), even if the plan was not also *established* by a church.

The district court disagreed, finding instead that subsection (33)(C)(i)'s use of the word "includes" means that it "identifies a *subset* of plans that qualify for the church plan exemption as defined by subsection 33(A)—specifically, plans need not be maintained by a church, and instead may be maintained by a church-affiliated corporation." D. Ct. Order at 9 (R. 64, p.9) (emphasis in original). The district court then went on

to note that (33)(C)(i) says nothing about a plan established by an affiliated organization. *Id.*

At the risk of over-simplifying, we offer the following summary of the statute and the parties' positions.

> The statute simplified: A church plan includes a plan maintained by a church affiliated organization.
>
> Advocate's position on what this means: A plan established and maintained by a church includes a plan established by a church-affiliated organization (and maintained by either a church or a church affiliated organization).
>
> The plaintiffs' position: A plan established and maintained by a church also includes a plan established by a church but maintained by a church-affiliated organization.

The district court, siding with the plaintiffs, concluded that the plain language of subsections (33)(A) and (33)(C)(i) together defines church plans as follows:

- A church plan established by a church and maintained by a church is a church plan.
- A church plan established by a church and maintained by a church-affiliated organization is a church plan.
- A church plan established by a church-affiliated organization and maintained by a church-affiliated organization is not a church plan.

In other words there are "two requirements establishment and maintenance—and only the latter

is expanded by the use of "includes" in subsection (33)(C)(i). *Kaplan*, 810 F.3d at 181. Because the plan here was both established and maintained by a church-affiliated organization, it is not a church plan.

Advocate's position—that a plan qualifies as a church plan merely by being maintained by a church-affiliated organization—has a fatal flaw. If a plan could qualify solely on the basis of being maintained by a church-affiliated organization, the "established by a church" requirement of subsection (33)(A) would become meaningless. And we know that this is not so, for subsection (33)(A) is a separate, independent requirement of the statute. Advocate's reading, therefore, violates a cardinal rule of statutory interpretation that every word and clause must be given meaning. "It is 'a cardinal principle of statutory construction' that 'a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant.'" *Doe v. Chao*, 540 U.S. 614, 630-31 (2004); *see also Kaplan*, 810 F.3d at 181 ("If [the hospital] were right, the church establishment requirement in § (33)(A) would be superfluous . . . a result we attempt to avoid when construing a statute). Thus the plain language of (33)(C) merely adds an alternative meaning to one of subsection (33)(A)'s two elements—"maintain" element—but does not change the fact that a plan must still be established by a church. *Kaplan*, 810 F.3d at 180. (The term "includes" merely provides an alternative to the maintenance requirement but does not eliminate the establishment requirement.);[5] *Rollins*, 19 F. Supp. 3d at 914 ("if all

[5] The Third Circuit, in *Kaplan*, questioned whether the similarly situated hospital in that case, St. Peter's Hospital, could even maintain an exempt plan. The court questioned, without

that is required for a plan to qualify as a church plan is that it meet subsection C's requirement that it be maintained by a church-associated organization, then there would be no purpose for subsection A, which defines a church plan as one established and maintained by a church.").

The Third Circuit provided an illuminating hypothetical to demonstrate why this must be so. In its hypothetical, the Third Circuit supposed that Congress passed a law that any person who is disabled and a veteran was entitled to free insurance. The court then imagined that in the ensuing years, questions arose as to whether people who served in the National Guard are veterans for purposes of the statute. To clarify the provision, Congress passed an amendment saying that "for purposes of the provision, a person who is disabled and a veteran includes a person in the National Guard." *Kaplan*, 810 F.3d at 181. All parties conceded that a person who served in the National Guard but who was not disabled could not qualify for free insurance in this hypothetical because only the second of the two original conditions was satisfied. *Id.* For the same reason, it must be true that both conditions of the original definition of a church plan must be satisfied here.

We simply cannot gloss over the fact that Congress included the word "established" in subsection (33)(A)

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needing to decide, whether the hospital could meet the requirement that a church-affiliated organization have the principal purpose of administering or funding the plan, and whether the hospital was indeed "controlled" by a church. These same questions arise in the litigation before us, but, like the Third Circuit, we find that they need not be resolved, as we have concluded that the Advocate plan is not exempt from ERISA in the first instance. *Kaplan*, 810 F.3d at 183 n.8.

but excluded it in subsection (33)(C)(i). In the latter subsection, "Congress could have said that a plan 'established and maintained' by a church includes a plan 'established and maintained' by a church agency," but despite an earlier proposal to do just that (which we will discuss in more detail below), "the final legislation did not say that." *Kaplan*, 810 F.3d at 182; *See also Rollins,* 19 F. Supp. 3d at 915 ("To assert that any church-associated organization can establish its own church plan fails to appreciate the distinction drawn by Congress through its purposeful word choice," that is, including the word "establish" in subsection (33)(A), but excluding it in subsection (33)(C)(i)). Congress used the word "establish and maintain" in subsection (33)(A) as something only a church may do. It used the word "maintain" in subsection (33)(C)(i) to refer to the requirements for church-affiliated organizations. The plain language difference between subsections (33)(A) and (C)(i) must be assumed to reflect deliberate choices made by Congress. *See Russello v. U.S.*, 464 U.S. 16, 23 (1983) ("Where Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress acts intentionally and purposefully in the disparate inclusion or exclusion.")

One of Advocate's main arguments is that the word "includes" expands rather than contracts the boundaries of what can be encompassed within the definition of a church plan. On this we do not disagree. Subsection (33)(C) expanded the definition of church plans from the narrower scope of those that were both established and maintained by a church to those that were established by a church but maintained by a church-affiliated organization. But, again, giving proper due to subsection (33)(A) and its relationship

with (33)(C)(i), it becomes clear that the word "includes" expands upon who may maintain a plan, but not who may establish one. *Kaplan*, 810 F.3d at 180; *Rollins*, 19 F. Supp. 3d at 915 ("only the category of 'who may maintain a church plan' is being expanded upon in subsection C(i), not the category of 'who may establish a plan.'").

A plain meaning reading also rules out Advocate's interpretation of subsection (33)(C)(ii) as supporting its theory that a church-affiliated organization can establish a church plan. That provision, states:

> (ii) The term employee of a church or a convention or association of churches includes—
>
> * * *
>
> (II) an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of Title 26 and which is controlled by or associated with a church or a convention or association of churches;

29 U.S.C. § 1002 (33)(C)(ii).

In short, it states that employees of a qualifying church-affiliated organization may be considered employees of a church for purposes of the exemption. The redefinition was necessary because both ERISA and the Internal Revenue Code require a plan to be sponsored by an employer for the benefit of its employees. 29 U.S.C. § 1002(2); 26 U.S.C. § 401(a). If a plan established by a church also covered employees of a church-associated organization, it would lose its status as a "plan" for the purposes of ERISA and tax-qualification requirements, unless those employees

were deemed employees of that church and that church was deemed their employer. Subsection (33)(C)(ii) resolved this problem.

Just as with subsection (33)(C)(i), this subsection does nothing to render inoperative subsection (33)(A)'s gate-keeping requirement that the plan first be established by a church. The fact that an established church plan may include employees of a church-affiliated organization does not mean that the church-affiliated organization may establish the plan in the first place. *See e.g., Kaplan v. Saint Peter's Healthcare Sys.*, No. Civ. A. 13-2941, 2014 WL 1284854, at *5 (D.N.J. Mar. 31, 2014), *aff'd,* 810 F.3d 175 (3d Cir. 2015) ("Once a church plan is established [by a church], subsection C(ii) delineates what individuals may participate in the church plan as employees of the church."); *Rollins*, 19 F. Supp. 3d at 915 ("Section C(ii) merely explains which employees a church plan may cover—once a valid church plan is established. It does nothing more.")

Other than the Third Circuit, which has concluded as we have, that a plan established by a religiously-affiliated hospital is not exempt from ERISA, no other circuit has directly addressed this question. Until this recent spate of litigation, most courts evaluating church plans were looking primarily at whether factually, the institutions were sufficiently affiliated with a church, and in doing so, merely glossed over the statutory language and assumed that the exemption applied to plans established by church-affiliated agencies. *See, e.g., Hall v. USAble Life*, 774 F. Supp. 2d 953, 958-59 (E.D. Ark. 2011); *Thorkelson v. Publ'g House of the Evangelical Lutheran Church in Am.,* 764 F. Supp. 2d 1119, 1128-29 (D. Minn. 2011); *Rinehart v. Life Ins. Co. of N. Am.*, No. C08-5486 RBL, 2009 WL

995715, at *4 (W.D. Wash. Apr. 14, 2009); *Catholic Charities of Maine, Inc. v. City of Portland*, 304 F. Supp. 2d 77, 85 (D. Me. 2004). And indeed, this is how the Fourth Circuit—the only other circuit to even tangentially address the question–proceeded. It stated that "a plan established by a corporation associated with a church can still qualify as a church plan." *Lown v. Cont'l Cas. Co.*, 238 F.3d 543, 547 (4th Cir. 2001) but did so based solely on the language of subsection (33)(C)(i) without any explanation for the discrepancy with subsection (33)(C)(A) requiring that the plan be established by a church. *Id*. Such an omission violates the primary rule of statutory construction that a court must give effect to the language of the statute as a whole. "Whether in dealing with the macrocosm of the entire statute or with the microcosm of the particular subsection before us, we must view the text as a whole and give effect to all of the statutory language." *U.S. v. Johnson*, 152 F.3d 618, 623-24 (7th Cir. 1998). *See also King v. Burwell*, 135 S. Ct. 2480, 2489 (2015) ("Our duty, after all, is 'to construe statutes, not isolated provisions.'"). In any event, the Fourth Circuit's statement was mere dicta, for that court ultimately decided that the exemption did not apply because the hospital was not associated with or controlled by a church. *Id.* at 548. And in this case, we do not face the factual question of whether or not the hospital was sufficiently associated with the church to qualify for the exemption. It is undisputed that the hospital is a church-affiliated organization and not a church. The only question, therefore, is whether it can establish a church-plan in the first instance.

Likewise, the district courts that have concluded that the exemption can apply to plans established by church-affiliated organizations (rather than by churches) fail to make sense of the interplay between

subsections (33)(A) and (33)(C)(i). *See, e.g.*, *Medina*, 2014 WL 4244012, at *2. (dismissing the distinction between "established and maintained" as a "term of art"); *Overall*, 23 F. Supp. 3d at 829 (interpreting the word "includes" in subsection (33)(C)(i) in a manner that eviscerates the substance of subsection (33)(A)).

Loyalty to the plain language principle is particularly important in this case. Advocate wishes to push the meaning of the exemption to include more organizations, and many more at that—organizations not contemplated by the primary definition in subsection (33)(A). ERISA, however, was written to protect workers who have invested their retirement savings into employer-run financial plans. And because it "is a 'remedial' statute [it] should be 'liberally construed in favor of protecting the participants in employee benefit plans.'" *Kaplan*, 810 F.3d at 182 (*citing IUE AFL–CIO Pension Fund v. Barker & Williamson, Inc.*, 788 F.2d 118, 127 (3d Cir. 1986)); *see also John Hancock Mut. Life Ins. Co. v. Harris Trust & Sav. Bank*, 510 U.S. 86, 97 (1993) (while discussing an ERISA exemption, noting that courts are "inclined, generally to tight reading[s] of exemptions from comprehensive schemes of this kind.").

Employees of religiously-affiliated hospitals are not immune from the perils of unregulated pension plans. The *amici* briefs in support of the defendant-appellants are replete with examples of hospitals that, after receiving a letter ruling from the IRS finding that the hospital's pension plan qualified as a church plan, converted their plans into ones not governed by the protections of ERISA. Then, when those hospitals encountered financial trouble, their employees were left with severely underfunded and uninsured pension plans. And, like the plan here, because no church had

established those hospitals plans, there was no church to accept responsibility for the fate of the participants' retirement benefits. *See Amicus Curiae* Brief of the Pension Rights Center in Support of Plaintiff-Appellee and Affirmance, p. 11; Brief of *Amici Curiae* Americans United for Separation of Church and State, American Civil Liberties Union, and ACLU of Illinois in Support of Appellees and Affirmance, pp. 9-10. *See also* Brief *Amici Curiae* of AARP and the National Employment Lawyers Association (NELA) in Support of Appellees Urging Affirmance, pp. 12-20 (cataloguing the many ways that church plans create serious financial risks for employees).

One need not impute a nefarious motive to the administrators of these plans in order to recognize the import of the ERISA protections. Even those plan administrators with the best of intentions may lack financial acumen or simply have bad investment luck. ERISA, however, would protect plan participants from these unintentional harms too.

B.

Our conclusion that the text is not ambiguous makes resort to statutory history unnecessary. *Mohamad v. Palestinian Auth.*, 132 S. Ct. 1702, 1709 (2012). Nevertheless, to the extent that legislative history is relevant to statutory interpretation, as the district court stated, the legislative history supports the correctness of the straightforward, rather than expansive reading of subsections (33)(A) and (33)(C) of Section 1002 of ERISA. D. Ct. Order at 15 (R. 64, p.15). The limited scope of the church-plan exemption can be gleaned from the plain language of the text, but the legislative history may be considered "to the extent [it] sheds a reliable light on the enacting Legislature's understanding of otherwise ambiguous terms." *Exxon Mobil*

Corp. v. Allapattah Servs., Inc., 545 U.S. 546, 568 (2005). In this case, the legislative history sheds reliable and helpful light.

As we have explained, the initial version of the language in ERISA subsection (33)(A), enacted in 1974, exempted plans created and maintained by churches so as to avoid any potential entanglement issues between the government and the churches. S. Rep. No. 93-383 (1973), reprinted in 1974 U.S.C.C.A.N. 4889, 4965 (exempting church plans to avoid "examinations of books and records" that "might be regarded as an unjustified invasion of the confidential relationship . . . with regard to churches and their religious activities.") The 1974 legislation permitted pre-existing plans established and maintained by churches to cover employees of church-affiliated agencies, but only temporarily. That provision was set to expire at the end of 1982. 29 U.S.C. §§ 1002(33)(A), (33)(C) (1974). *See* PL 93-406, § 3, 88 Stat. 829 (Sept. 2, 1974). The religious community had two distinct concerns about the 1974 definitions: (1) The sunset provision would preclude church plans from including employees of church-affiliated agencies after 1982 and therefore create a situation in which a church would be required to have one exempt plan for church employees and a separate nonexempt plan for the church-affiliated employer (the affiliated entity problem); and (2) the requirement that all church plans be "maintained" by a church concerned certain churches that used distinct financial services organizations, which were separate from but controlled by the denomination, to maintain and administer their pension plans (the pension board problem). To address these concerns, Senator Herman Talmadge and Representative Barber Conable cosponsored amendments to the church plan definition, which were enacted as part of the Multiemployer

Pension Plan Amendments Act of 1980, Pub. L. No. 96-364, 94 Stat. 1208 (Sept. 26, 1980). This 1980 amendment remains current law.

To address the pension board problem—that is, what types of entities could maintain a church plan—the legislators proposed and Congress adopted language that amended the meaning of "a plan established and maintained . . . by a church" to "include [] a plan *maintained* by an organization . . . the principal purpose or function of which is the administration or funding of a plan or program for the provision of retirement benefits or welfare benefits, or both . . . if such organization is controlled or associated with a church." *Id*. at § 407 (emphasis supplied). Thus a church-established plan could be maintained by either a church or a church affiliated "principal purpose" entity, such as a pension board.

The original proposed version of subsection (C)(i) expanded the church plan exemption to "include" plans "*established and* maintained" by "principal purpose" entities. 124 Cong. Rec. 12,107 (May 2, 1978) (statement of Rep. Conable). This would have allowed a pension board (or possibly other affiliated organizations) to establish a church plan on its own. The final version, however, omitted the words, "established and," before the word "maintained" when discussing the church-affiliated entities, thus purposefully leaving within the exemption only those plans established by a church. This critical difference between the final text and earlier drafts of the 1980 amendment supports the theory that the narrow language was intentional. "Where Congress includes limiting language in an earlier version of a bill but deletes it prior to enactment, it may be presumed that the limitation was not intended." *Russello v. U.S.,* 464 U.S. 16, 23-24

(1983). In other words, the additional language added in subsection (33)(C)(i) resolved the logistical problem that many churches faced when they wanted to establish church plans but were not necessarily interested in or qualified to administer those plans themselves and therefore wished to engage a third party to administer or maintain the plan. Viewed in this context, Congress's purposeful choice to limit the wording of subsection (33)(C)(i) to plans maintained by eligible organizations makes logical sense and its omission of those established by such entities appears deliberate.

The legislative comments support the notion that the legislature had no intention of altering the original definition of a church plan as one established and maintained by a church. When introducing the legislation, Senator Talmadge stated that the amendment would "retain the definition of church plan as a plan established and maintained for its employees by a church" but would clarify that "a plan or program funded or administered through a pension board . . . will be considered a church plan." 124 Cong. Rec. S.3172, 16,523 (1973) (Sen. Talmadge). And various committee reports emphasized that the language was added merely to clarify that a church plan could be maintained by a pension board. *See Rollins*, 19 F. Supp. 2d at 917 (collecting committee comments demonstrating that it was the intention of Congress to maintain the original definition of a church plan and simply clarify that pension boards could maintain those church-established plans). In sum, the history explains that the purpose behind subsection (33)(C) was to permit churches to delegate the administration of their retirement plans, not to broaden the scope of who could establish those plans. *See id.* at 916.

To address the affiliated agency problem, the legislators proposed language that amended the definition of "employee" to "include[] . . . an employee of an organization . . . which is controlled by or associated with a church." 29 U.S.C. § 1002 (33)(C)(ii)(II). The result was that a church plan—which is still defined as a "plan established and maintained . . . for its employees by a church," (§ 1002 (33)(A)), could now include employees of church-associated organizations indefinitely. This addressed concerns that churches would have to create two separate plans—one for churches themselves and another for church-affiliated agencies—and addressed concerns about treating religious clergy and lay employees differently, or the difficulties that might ensue when clergy move from job duties in a church to those in an affiliated agency and back again. Thus subsection (33)(C)(ii)(II) allowed churches to include both their church employees and their affiliated-organization employees in the same ERISA-exempt plan, but otherwise "retained the basic definition of church plan as a plan established and maintained for its employees by a church." 124 Cong. Rec. 12107 (May 2, 1978) (Rep. Conable). As Senator Talmadge explained, "[u]nder the provisions of our proposals, . . . a church plan shall be able to continue to cover the employees of church-associated organizations. There will be no need to separate the employees of church agencies from the church plan." 125 Cong. Rec. 10,052 (May 7, 1979) (Sen. Talmadge).

Advocate and the *amici* supporting it draw our attention to the commentary leading up to the amendments in which legislators and representatives of many religious institutions explained how church-affiliated organizations performed roles important to the functions of the church. For example, Senator Talmadge stated, "Church agencies are essential to

the church's mission. They care for the sick and needy and disseminate religious instruction. They are, in fact, part of churches." 125 Cong. Rec. 10,052 (May 7, 1979) (Sen. Talmadge). This language surely conveys why some legislators thought it important to continue to allow employees of church-affiliated organizations to be included in the same plans as the church, but it does nothing to support a theory that such organizations should be allowed to establish their own church plans. *See Kaplan*, 810 F.3d at 184 (clarifying that Senator Talmadge's language regarding the importance of church-affiliated organizations was focused on correcting the sunset provision for affiliated-agencies and was not meant to allow those agencies to establish church plans).

In sum, although the legislative record clearly supports an intent to continue to allow employees of church-affiliated organizations to be included in church plans, no part of that record suggests an intent to allow a church-affiliated corporation to claim the exemption for a plan unless the church itself has established the plan, as required by the original definition of a church plan in subsection (33)(A) of ERISA.

The final piece of Advocate's statutory argument focuses on a treasury regulation. Advocate argues that the addition of the amended ERISA statutory language rendered the following treasury regulation redundant: "a plan which otherwise meets the provisions of this section shall not lose its status as a church plan because of the fact that it is administered by a separately incorporated fiduciary such as a pension board or a bank." 26 C.F.R. § 1.414(e)-1. It is true that the statute is duplicative, but although courts have long recognized that a statute should not be construed

to render other statutory words or phrases redundant, it has never been the rule that a regulation cannot be redundant with a statute. *See, e.g., Linares Huarcaya v. Mukasey*, 550 F.3d 224, 229-30 (2d Cir. 2008) ("it is unclear whether the statutory principle not to render a term redundant even applies to deference to an agency regulation.")

In sum, Advocate's arguments regarding the legislative history and purpose of the ERISA amendments focus on the fact that many church-affiliated organizations carry on the work of the church (to care for the sick and needy, for example) and are thus integral to the mission and purpose of the church. Neither the plaintiffs nor the court below, nor this court quarrel with this view. Because of this shared mission, Advocate argues, church-affiliated-organization employees ought to be allowed to participate in the church's retirement plan. And indeed they are. The ERISA exemption does not hinder a church's ability to include its affiliated-organization employees in its plan in any regard. Church-affiliated-organization employees may participate in the same retirement plans as church employees with no further distinctions. Moreover, churches may have outside organizations maintain their plans. The only requirement is that a church must establish the plan in the first place.

C.

Advocate also asks this court to give deference to the IRS interpretation of a church plan. After Congress passed the ERISA amendments, the IRS began distributing letter rulings in which it issued ERISA exemptions to plans established by church-affiliated organizations. *See* R.74-2, pp. 8-31 (collecting IRS private ruling letters). The IRS issued both of Advocate's predecessor hospitals a private letter ruling (on

March 7, 1991 to Evangelical Association Employees' Pension Plan (R.35-11) and on November 3, 1998, to the Lutheran General Plan (R.35-12). Advocate merged these two plans into the existing plan on December 31, 1998. It is tempting indeed to turn to the interpretation made by the agency charged with administering these tax exemptions to settle this dispute, but we can do so only when the opinions of that agency are expressed after a "formal adjudication or notice and comment rulemaking." *Christensen v. Harris Cnty.*, 529 U.S. 576, 587 (2000). A court does not owe the same deference to an agency opinion expressed in a letter that it would to an agency interpretation that emerges through formal processes. *Id.* Indeed, even the 1982 IRS General Counsel Memorandum that Advocate cites states, "This document is not to be relied upon or otherwise cited as precedent by taxpayers." 1983 WL 197946, at *6 (Nov. 2, 1982). "[I]nterpretations contained in formats such as opinion letters are 'entitled to respect,' ... but only to the extent that those interpretations have the 'power to persuade.'" *Christensen*, 529 U.S. at 587 (citing *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944)). In this case, the IRS position came in a general counsel memorandum and through individual letter rulings and not through formal adjudication and rulemaking. *See Christensen*, 529 U.S. at 587. Moreover, the general counsel memorandum also conflicts with the plain language of the statute and wholly fails to consider the relationship between definitions of a church plan in subsections (33)(A) and (33)(C)(ii).

The fact that the IRS private letter rulings have been "long standing" and abundant does not alter our conclusion. Congressional acquiescence to an agency's statutory construction may be inferred only where there is "overwhelming evidence that Congress

considered and failed to act upon the precise issue before the court." *Rapanos v. U.S.*, 547 U.S. 715, 750 (2006) (internal citation omitted). "Congressional silence lacks persuasive significance . . . particularly where administrative regulations are inconsistent with the controlling statute." *Brown v. Gardner*, 513 U.S. 115, 121 (1994) (internal citations omitted). There is no evidence that Congress was aware of the agency's interpretation and acquiesced. We conclude, therefore, as did the district court, that the IRS letter rulings are not persuasive and we owe them no deference.

D.

Each party also makes a claim under the First Amendment. Advocate alleges that by finding that only a church can establish a plan, the district court has construed the statute in a way that allows the government to define what a church is and how it should structure its mission. The plaintiffs (buttressed by *Amicus Curiae* Freedom From Religion Foundation) assert that any exemption at all for church plans violates the Constitution by favoring religious adherents over non-adherents. *See Bd. of Educ. v. Grumet*, 512 U.S. 687, 696 (1994). We need not address the plaintiffs' Constitutional argument, as our interpretation of the statute provides the plaintiffs with all of the relief they request.

The problem with Advocate's constitutional claim—that the government's interpretation allows the government to define what is and is not a church—is that it equally dooms Advocate's own interpretation of the statute. In order for a church-affiliated organization to take advantage of the exemption, the government must still determine whether the entity with which that organization is claiming affiliation is indeed a

church. And in determining whether that allegedly affiliated organization is indeed sufficiently associated with the church, the courts invariably dig deeply through the workings of the church and its relationships with the affiliated agency. *See, e.g., Lown*, 238 F.3d at 548; *Chronister v. Baptist Health,* 442 F.3d 648, 653 (8th Cir. 2006); *Thorkelson*, 764 F. Supp. 2d at 1127; *Catholic Charities of Maine,* 304 F. Supp. 2d at 85; *Goetz v. Greater Georgia Life Ins. Co*., 554 F. Supp. 2d 831 (E.D. Tenn. 2008).

In any event, Congress has made these distinctions on numerous occasions before, distinguishing between churches and other religious organizations without constitutional concern. *See Walz v. Tax Comm'n of City of New York*, 397 U.S. 664, 672-73 (1970) (upholding the constitutionality of a property tax exemption for churches); *U.S. v. Jeffries*, 854 F.2d 254, 258 (7th Cir. 1988) (applying criteria to distinguish a church from other forms of religious enterprise); *Found. of Human Understanding v. U.S.*, 614 F.3d 1383, 1389 (Fed. Cir. 2010) (noting, the "generally accepted principle" that Congress may distinguish between churches and other religious organizations). Indeed the U.S. Code is filled with provisions that distinguish between churches and other religious entities. *See, e.g.*, 26 U.S.C. § 7611 (restricting IRS inquiries into a church or "convention or association of churches," but not into other religious entities); 26 U.S.C. § 170(b)(1)(A)(i) (allowing deductions for charitable contributions to churches); 26 U.S.C. § 514(b)(3)(E) (applying special rules for debt-financed properties when those properties belong to a church). In short, "religious employers ... have long enjoyed advantages (notably tax advantages) over other entities . . . without these advantages being thought to violate the establishment clause. *Univ. of Notre Dame v. Sebelius*, 743 F.3d 547, 560 (7th Cir.

2014) *cert. granted, judgment vacated on other grounds sub nom. Univ. of Notre Dame v. Burwell*, 135 S. Ct. 1528 (2015).

Advocate argues that our interpretation results in church plan status being based on a church's structure and governance and that it discriminates against denominations. It is true that one religious denomination cannot be preferred over another. *Larson v. Valente*, 456 U.S. 228, 244 (1982). But "[t]he establishment clause does not require the government to equalize the burdens (or the benefits) that laws of general applicability impose on religious institutions. *Sebelius*, 743 F.3d at 560. And so, for example, "[a] law exempting churches or other religious property from property taxes will benefit religious denominations that own a great deal of property, to the disadvantage of denominations with modest property holdings (such as storefront churches). This unequal effect does not condemn the law." *Id*. In fact, it is not so much the structure of the church as the structure of the church-affiliated organization that matters here. Any church that establishes a plan can claim shelter within the ERISA exemption no matter what religion, structure or denomination. That plan can be maintained by the church itself or maintained by a pension board or other outside organization. A church can also establish a church plan for any of its affiliated organizations no matter what the religion or denomination, and that plan can be maintained by the church itself or maintained by a pension board or other outside organization. The church plan definition is available to all churches of all religious denominations and structures.

Because we have concluded that Advocate's benefit plan does not meet the definition of an ERISA church-

plan exemption, we need not resolve any of Advocate's remaining issues. The opinion of the district court is AFFIRMED.

KANNE, *Circuit Judge*, concurring. Because I am persuaded that our interpretation of this statute does not compel church-affiliated organizations to operate in a way that violates their religious beliefs, I join the majority opinion in full. At bottom, this statute requires a church-affiliated organization to use a particular corporate form for its retirement plans in order to receive the benefit of being exempt from ERISA. I have doubts there is a constitutional or statutory right to a retirement plan using a particular corporate structure. *See Kaplan v. Saint Peter's Healthcare Sys.*, 810 F.3d 175, 186 (3d Cir. 2015).

I am aware, however, of religious concerns that have arisen from other statutes compelling entities to provide services that violate their religious beliefs. *See Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751 (2014); *Univ. of Notre Dame v. Burwell*, 786 F.3d 606, 626 (7th Cir. 2015) (Flaum, J., dissenting). I write separately to emphasize that this is not one of those cases. For that reason, I am comfortable joining in the majority's well-reasoned opinion.

APPENDIX B

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

[Filed 12/31/14]

No. 14 C 01873

MARIA STAPLETON ET AL., on behalf of themselves, individually, and on behalf of all others similarly situated, and on behalf of the Advocate Plan,

Plaintiffs,

v.

ADVOCATE HEALTH CARE NETWORK AND SUBSIDIARIES, ET AL.,

Defendants.

Judge Edmond E. Chang

MEMORANDUM OPINION AND ORDER

This action raises a question that has divided federal courts in recent years: whether religiously affiliated employers like hospitals and charities are exempt from federal regulation of their employee-benefits plans based on a statutory exemption created for churches. Plaintiffs are current and former employees of Defendant Advocate Health Care Network, a non-profit corporation affiliated with two Christian denominations. Advocate is Illinois's largest health-care provider. Plaintiffs allege that Advocate has not maintained its pension plan according to standards set

by the Employee Retirement Income Security Act (ERISA), 29 U.S.C. § 1001 *et seq.*, and seek money damages and equitable relief. R.1, Compl.[1] Alternatively, Plaintiffs seek declaratory relief that ERISA's "church plan" exemption violates the First Amendment's Establishment Clause.

Advocate has moved to dismiss the complaint under Federal Rules of Civil Procedure 12(b)(6) and 12(b)(1), R. 34, Mot. Dismiss, arguing that its plan falls within the church plan exemption, which Advocate further asserts is constitutional as a matter of law. As explained in detail below, because statutory analysis reveals that the Advocate plan does not qualify as a church plan and is instead fully subject to ERISA's requirements, the motion is denied. The Court accordingly need not address Plaintiffs' constitutional challenge.

I.

Advocate operates 12 hospitals and more than 250 other inpatient and outpatient healthcare locations across northern and central Illinois, employing 33,300 people and generating $4.6 billion in annual revenue. Compl. ¶ 19.[2] It was formed in 1995 as a 501(c)(3) nonprofit corporation and it competes with other nonprofit as well as for-profit conglomerates in the commercial healthcare market. *Id*. ¶¶ 6, 40. Although it is

[1] The Court exercises subject matter jurisdiction under 28 U.S.C. § 1331 and 29 U.S.C. § 1132(e)(1). Citations to the docket are noted as "R." followed by the entry number and a description of the document.

[2] Advocate is one of a number of parties named as defendants, including 60 Jane Does, for alleged involvement in the administration of the Advocate Plan. For the sake of convenience, the Court will refer to the defendants, who move together to dismiss the complaint, collectively as "Advocate."

affiliated with the United Church of Christ and the Evangelical Lutheran Church in America, Advocate is not owned or financially supported by either church. *Id*. ¶¶ 48-50. Advocate maintains a non-contributory, defined-benefit pension plan that covers substantially all of its employees. *Id*. ¶ 58.

Plaintiffs Maria Stapleton, Judith Lukas, Sharon Roberts, and Antoine Fox are former and current Advocate employees with vested claims to benefits under that plan. *Id*. ¶¶ 14-17. They have brought their complaint as a proposed class action on behalf of all participants or beneficiaries of the Advocate plan. *Id*. ¶ 108. Plaintiffs allege that by unlawfully operating the plan outside the scope of ERISA, Advocate breached its fiduciary duties and harmed the plan's participants by: requiring an improperly long period of five years of service to become fully vested in accrued benefits; failing to file reports and notices related to benefits and funding; funding the plan at insufficient levels; neglecting to provide written procedures in connection with the plan; placing the plan's assets in a trust that do not meet statutory requirements; and failing to clarify participants' rights to future benefits. *Id*. (Counts One-Nine). Alternatively, even if Advocate can evade liability on these counts under the church plan exemption, Plaintiffs allege that this provision of ERISA is void as an unconstitutional violation of the First Amendment's prohibition on state establishment of religion. *Id*. (Count Ten). They therefore seek a declaration that the Advocate plan is a benefits plan covered by ERISA, or in the alternative, a declaration that the church plan exemption is unconstitutional, as well as an injunction requiring Advocate to reform the plan to comply with ERISA's requirements and an award of civil penalties. *Id*. (Prayer for Relief).

II.

A Rule 12(b)(6) motion "challenges the sufficiency of the complaint to state a claim upon which relief may be granted." *Hallinan v. Fraternal Order of Police Chicago Lodge No. 7,* 570 F.3d 811, 820 (7th Cir. 2009). The complaint "must contain sufficient factual matter, accepted as true, to 'state a claim to relief that is plausible on its face.'" *Ashcroft v. Iqbal,* 556 U.S. 662, 678 (2009) (quoting *Bell Atl. v. Twombly,* 550 U.S. 544, 570 (2007)). The court must accept as true the complaint's factual allegations and draw reasonable inferences in the plaintiff's favor. *Ashcroft v. al-Kidd*, 131 S.Ct. 2074, 2079 (2011). Nevertheless, the allegations "must be enough to raise a right to relief above the speculative level," *Twombly,* 550 U.S. at 555, and are entitled to an assumption of truth only so long as they are *factual* in nature, rather than mere *legal* conclusions. *Iqbal,* 556 U.S. at 678-79.

Rule 12(b)(1) provides the procedural vehicle by which the defendant may move a federal court to dismiss a claim or suit on the ground that the court lacks jurisdiction. *See* Fed. R. Civ. P. 12(b)(1); *Apex Digital, Inc. v. Sears, Roebuck & Co.*, 572 F.3d 440, 444 (7th Cir. 2009). Although Advocate premises its motion to dismiss on both a failure to state a claim under Rule 12(b)(6) and a lack of subject matter jurisdiction under Rule 12(b)(1), only the former is at play here.

It is true that in the past some courts portrayed dismissals of ERISA claims based on exempt plans as dismissals for want of "jurisdiction"—if the plan itself falls outside the scope of federal law, the thinking went, a federal court cannot entertain actions raised against it. *See, e.g.*, *Tinoco v. Marine Chartering Co.*, 311 F.3d 617, 623 (5th Cir. 2002) ("Where . . . evidence

fails to establish the existence of an ERISA plan, the claim must be dismissed for lack of subject matter jurisdiction.") (quoting *Kulinski v. Medtronic Bio-Medicus, Inc.*, 21 F.3d 254, 256 (8th Cir. 1994)). But the Supreme Court and the Seventh Circuit have instructed in recent years that courts must take care not to conflate a jurisdictional threshold with a plaintiff's initial burden to state a plausible claim.[3] To ask whether a federal law like ERISA reaches a certain actor or conduct in the first place is itself a *merits* question, not a jurisdictional one. *See Morrison v. Nat'l Australia Bank Ltd.*, 561 U.S. 247, 254 (2010); *Arbaugh v. Y&H Corp.*, 546 U.S. 500, 516 (2006). Thus, where an action concerns allegations about a benefit plan's potential liabilities under federal law, "[a] federal district court is the right forum for a dispute about the meaning of ERISA." *NewPage Wisconsin Sys. Inc. v. United Steel, Paper & Forestry, Rubber, Mfg., Energy Allied Indus. & Serv. Workers Int'l Union, AFL-CIO/CLC*, 651 F.3d 775, 777 (7th Cir. 2011) ("Whether a claim is good differs from the question whether a district court possesses jurisdiction, a matter of adjudicatory competence."); *see also Smith v. Reg'l Transit Auth.*, 756 F.3d 340, 345 (5th Cir. 2014) (surveying case law in five circuits holding that whether benefits plan is exempt under ERISA implicates not jurisdiction but an element of claim). The test then for Plaintiffs' complaint is not whether it properly invokes jurisdiction, which it does, but

[3] The distinction is not just semantic. Courts must be careful to frame defects as going to subject matter jurisdiction only where appropriate, given that subject matter jurisdiction flaws (unlike problems with pleadings) can never be waived. *See Reed Elsevier, Inc. v. Muchnick*, 559 U.S. 154, 161 (2010).

rather whether it states a plausible right to relief in light of Advocate's claimed church plan exemption.

III.

A.

ERISA was enacted in 1974, Pub. L. No. 93-406, 88 Stat. 829 (1974), to protect "the interests of participants in employee benefit plans and their beneficiaries by setting out substantive regulatory requirements" for the plans. *Aetna Health Inc. v. Davila*, 542 U.S. 200, 208 (2004) (internal quotation marks and citations omitted). Although nothing in ERISA requires employers to create benefits plans in the first place or mandates any specific benefit that must be provided, the law seeks "to ensure that employees will not be left empty-handed once employers have guaranteed them certain benefits." *Lockheed Corp. v. Spink*, 517 U.S. 882, 887 (1996) (citations omitted); *see also Sullivan v. CUNA Mut. Ins. Soc'y*, 649 F.3d 553, 560 (7th Cir. 2011) ("ERISA was enacted to protect employees from employers who mismanaged or even looted funds set aside to provide employee benefits—both pension plans and welfare plans.") (citing *Shaw v. Delta Air Lines, Inc.*, 463 U.S. 85, 90 (1983)).

Congress explicitly exempted certain types of plans from the scope of ERISA, including those set up by federal, state, local, or tribal governments, 29 U.S.C. §§ 1002(32), 1003(b)(1), as well as any "church plan," 29 U.S.C. §§ 1003(b)(2). Section 1002(33)(A) of Title 29 states that a church plan is "a plan established and maintained . . . for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax [ ]." 29 U.S.C. § 1002(33)(A). Subsection 33(C) then adds:

(C) For purposes of this paragraph—

(i) A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches 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 benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

(ii) The term employee of a church or a convention or association of churches includes—

. . .

(II) an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax [ ] and which is controlled by or associated with a church or a convention or association of churches[.]

29 U.S.C. § 1002(33)(C). The survival of Plaintiffs' action turns on whether the Advocate plan, as a matter of law, qualifies as a "church plan" under the terms of this statutory thicket.

B.

Advocate does not contend that it itself is a church, nor does it claim that a church or an association of churches initially established its pension plan. But Advocate is convinced that its plan qualifies under the plain language of subsection 33(C)(i), which sweeps

into the exemption "a plan maintained by" a qualifying corporation. R. 35, Defs.' Br. at 12-15. Plaintiffs respond that subsection 33(C)(i) is not the safe harbor Advocate believes it to be, because its inclusion of plans "maintained" by a corporation does nothing to change the underlying requirement, articulated in subsection 33(A), that the plan must still be "established" by a church. R. 46, Pls.' Resp. Br. at 7-13. This issue has generated conflicting federal-court decisions and remains an open question in this Circuit. After reviewing the case law and employing the various tools of statutory interpretation available for guidance, the Court concludes that the Advocate plan is not a church plan.

1.

The Court begins, as it must in all cases of statutory construction, with the language of the statute. *See, e.g.*, *Barnhart v. Sigmon Coal Co.*, 534 U.S. 438, 450 (2002). The "first step . . . is to determine whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case." *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997). "Where Congress's intent is clear from that language, it must be given effect." *Arobelidze v. Holder*, 653 F.3d 513, 518 (7th Cir. 2011) (citing *Chevron, U.S.A., Inc. v. Natural Res. Def. Council, Inc.*, 467 U.S. 837, 842-43 (1984)).

Subsection 33(A) defines a church plan as a "plan established *and* maintained" by a church. 29 U.S.C. § 1002(33)(A) (emphasis added). So far, the meaning is straightforward. Two separate elements must both be met for the exemption to apply: a church must first create (establish) the plan and then run (maintain) the plan. If the statute stopped there, then Advocate would clearly lose: *Advocate* established its plan, and

therefore its plan was not established by a *church*. The statute, however, goes on and provides a basis for Advocate's argument, although ultimately an unpersuasive one. It is worth again setting forth subsection 33(C)(i), though this time, with a focus on the italicized prefatory text:

> (i) *A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches* 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 benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

29 U.S.C. § 1002(33)(C)(i). The prefatory text should look familiar because it is essentially word-for-word the same as the definition of a "church plan" in subsection 33(A): a "'church plan' means a plan established and maintained . . . for its employees (or their beneficiaries) by a church or by a convention or association of churches . . ." § 1002(33)(A). So subsection 33(C)(i), in a roundabout way, in effect starts out by saying, "A church plan . . . ."

Advocate points out that, continuing on with subsection 33(C)(i)'s text, a church plan "includes a plan *maintained* by an organization," so long as that organization is associated with or controlled by a church and functions to administer a plan for church employees. 29 U.S.C. § 1002(33)(C)(i) (emphasis added). In Advocate's view, this provision "expands

the definition of church plan" so that if an otherwise qualifying organization simply *maintains* the plan, it has fully satisfied all of subsection 33(A)—even though the plan was not also *established* by a church. Defs.' Br. at 13.

But this reading tries to make the statutory language say something it does not. Subsection 33(C)(i)'s use of the word "includes" (as in, "includes a plan maintained by an organization") means that it identifies a *subset* of plans that qualify for the church plan exemption as defined by subsection 33(A)—specifically, plans need not be maintained by a church, and instead may be maintained by a church-affiliated corporation. Note, however, that subsection 33(C)(i) says nothing about a plan *established* by an affiliated organization. If, as Advocate would have it, a plan could qualify solely on the basis of being maintained by a non-church entity (the second element of subsection 33(A)), the "established by" requirement (the first element of subsection 33(A)), which is a separate, independent requirement under the terms of subsection 33(A), would become meaningless. That reading, therefore, violates a "cardinal principle of statutory construction . . . to give effect, if possible, to every clause and word of a statute rather than to emasculate an entire section." *Bennett v. Spear*, 520 U.S. 154, 173 (1997) (internal citations and quotation marks omitted); *accord United States v. Natour*, 700 F.3d 962, 973 (7th Cir. 2012) ("[C]ourts should strive to give meaning to every word and should reject any interpretation that renders any portion of the statute superfluous.").

As another district court writing on this issue recently noted, if "all that is required for a plan to

qualify as a church plan is that it meet section [33(C)'s] requirement that it be maintained by a church-associated organization, then there would be no purpose for section A." *Rollins v. Dignity Health*, 19 F. Supp. 3d 909, 914 (N.D. Cal. 2013) ("[This] interpretation would reflect a perfect example of an exception swallowing the rule."). Contrary to Advocate's proposed interpretation, the plain language of subsection 33(C)(i) merely adds an alternative means of meeting *one* of subsection 33(A)'s two elements—and nothing more. *See Kaplan v. Saint Peter's Healthcare Sys.,* No. 13 CV 2941, 2014 WL 1284854, at *7 (D.N.J. Mar. 31, 2014) ("The term 'includes' merely provides an alternative to the maintenance requirement but does not eliminate the establishment requirement.").[4]

For the same reason, Advocate's reliance on subsection 33(C)(ii)(II) is also misplaced. This provision, which states that employees of a qualifying, church-affiliated organization may be considered employees of a church for purposes of the exemption, operates only in the context of subsection 33(C)(i)'s modification of the "maintained by" requirement. Subsection 33(C)(ii)(II) specifies that a plan maintained by a qualifying corporation may also include employees of an affiliated, non-church organization, but like subsection 33C(i), it does nothing to render inoperative subsection 33(A)'s underlying requirement that the plan first be established by a church. *See Rollins*, 19 F. Supp. 3d at 915 ("Section C(ii) merely explains which employees a church plan may cover—once a

[4] Because Advocate's argument for dismissal at the pleading stage is rejected, there is no occasion to address, right now, the remaining elements listed by subsection 33(C)(i), *e.g.*, whether Advocate is associated with or controlled by a church.

valid church plan is established. It does nothing more."); *Kaplan*, 2014 WL 1284854, at *5 ("*Once a church plan is established* [by a church], subsection C(ii) delineates what individuals may participate in the church plan as employees of the church.") (emphasis added).

Decisions that have come to the opposite conclusion, respectfully, are not convincing. Discussing the church plan exemption in *Lown v. Cont'l Cas. Co.*, the Fourth Circuit suggested that a plan need only be established by an affiliated organization to qualify, but relied only on subsection 33(C)(i) without mentioning subsection 33(A) (arguably, the interpretation is *dictum* because *Lown* ultimately decided that the exemption did not apply on other grounds). 238 F.3d 543, 547 (4th Cir. 2001) (holding that a disability plan offered by hospital is not church plan based on employer's lack of association with or control by church); *cf. Chronister v. Baptist Health*, 442 F.3d 648, 653-54 (8th Cir. 2006) (same). And most of the contrary district court cases similarly do not examine subsection 33(A) looking instead at subsection 33(C)(ii) in isolation. *See Thorkelson v. Publ'g House of Evangelical Lutheran Church in Am.*, 764 F. Supp. 2d 1119, 1127 (D. Minn. 2011) (holding that a corporation-established plan qualifies for church -plan exemption by focusing solely on whether employer was affiliated with church under section C(i)); *Hall v. USAble Life*, 774 F. Supp. 2d 953, 960 (E.D. Ark. 2011) (hospital's plan qualifies based on "ties" to Roman Catholic Church); *Rinehart v. Life Ins. Co. of N. Am.*, No. 08 CV 5486, 2009 WL 995715, at *3 (W.D. Wash. Apr. 14, 2009) (plan may qualify as church plan by "satisfy[ing] the narrower provision of § (33)(C)(i)"). Yet by premising eligibility for the exemption solely on subsection 33(C)'s criterion of

whether the employer organization is properly affiliated with or controlled by a church, these courts are, in effect, taking an expansion of one element that need not even be reached (the maintenance element), as if it reformulated the original definition of the exemption and indeed removed the establishment element altogether. *Compare, e.g.*, *Catholic Charities of Maine, Inc. v. City of Portland*, 304 F. Supp. 2d 77, 85 (D. Me. 2004) ("ERISA brings a plan established *or* maintained by a non-church organization within the general definition of 'church plan.'") (emphasis added) *with* 29 U.S.C. § 1002(33)(A) (church plan is "a plan established *and* maintained" by a church) (emphasis added).

Two courts did address subsection 33(A), without which subsection 33(C)(i), as an elaboration on the former, makes no sense. One district court held that subsection 33C(i) could redefine the church plan definition despite subsection 33(A), because the "established and maintained" language in the latter is a "singular requirement, a term of art," rather than two distinct elements. *Medina v. Catholic Health Initiatives*, No. 13 CV 01249, 2014 WL 4244012, at *2-3 (D. Colo. Aug. 26, 2014) (overruling Report and Recommendation of Magistrate Judge). In another case, *Overall v. Ascension*, the district court took the same tack, holding that a plan thus meets all of subsection 33(A) collectively so long as it meets subsection 33C(i)'s maintenance requirement. 23 F. Supp. 3d 816, 829 (E.D. Mich. 2014). But neither of these cases explain why "established and maintained" should be read as a singular term of art when, as a matter of grammar and practice, those two words have separate, ordinary meanings. *See, e.g.*, *Gonzales v. Oregon*, 546 U.S. 243, 282 (2006) ("We do not force

term-of-art definitions into contexts where they plainly do not fit.").

In sum, none of this contrary authority adequately explains away subsection 33(A)'s distinct requirement that a church plan must be *established* by a church.[5] Instead, as the more persuasive decisions to have recently addressed the issue have emphasized, the straightforward statutory language of subsections 33(A) and (C), particularly in the context of legislation as complex as ERISA, must be assumed to reflect deliberate choices made by Congress. *See Kaplan*, 2014 WL 1284854, at *6 (citing *Hartford Underwriters Ins. Co. v. Union Planters Bank, N.A.*, 530 U.S. 1, 6 (2000)). The absence of "established" in subsection C(i), in contrast to its presence in subsection 33(A), cannot be overlooked as easily as Advocate contends. "[W]e must presume that Congress acted intentionally in using the words 'establish and maintain' in section A as something only a church can do, as opposed to the use of only the word 'maintain' in section C(i) to refer to the capabilities of church-associated organizations." *Rollins*, 19 F. Supp. 3d at 915 ("To assert that any church-associated organization can establish its own church plan fails to appreciate the distinction drawn by Congress through its purposeful word choice."). "[W]here Congress includes particular language in one section of a statute but omits it in another section of the same Act, it is generally presumed that Congress

[5] Advocate also relies repeatedly on a decision issued by another court in this District, *Friend v. Ancilla Sys. Inc.*, 68 F. Supp. 2d 969 (N.D. Ill. 1999). *See* Defs.' Br. at 1, 12, 15, 17, 18. But *Friend* is not nearly as relevant as Advocate suggests, holding simply that subsection 33(C)(i) does not require that a third party administrator necessarily be in charge of maintaining a benefits plan in order to meet the exemption. 68 F. Supp. 2d at 973.

acts intentionally and purposely in the disparate inclusion or exclusion." *Russello v. United States*, 464 U.S. 16, 23 (1983) (citation omitted).

This statutory-interpretation principle is particularly meaningful because, here, Advocate's proposed gloss would extend the benefits of the church plan exemption to an entirely new category of entity not envisioned by the primary definitional subsection, which is subsection 33(A). Given that ERISA is what is known as a "remedial" statute, any exemptions to which should be construed as narrowly as possible, this result would be particularly unfounded on such a tenuous basis. *See Kaplan*, 2014 WL 1284854, at *6 (citing *Rodriguez v. Compass Shipping Co.*, 451 U.S. 596, 614 n.33 (1981)). If Congress had intended for the church plan exemption to apply to plans never actually set up by churches (and merely run by organizations claiming a later religious association, the terms of which are undefined in the statute), it would not have evinced that intent in such a roundabout way.

2.

To the extent that legislative history is relevant to statutory interpretation, the statute's history further supports the correctness of the straightforward, rather than expansive, reading of subsection 33(A) and (C) discussed above. When making sense of a statute, of course, "the authoritative statement is the statutory text," but extrinsic materials like legislative history may be considered "to the extent they shed a reliable light on the enacting Legislature's understanding of otherwise ambiguous terms." *Exxon Mobil Corp. v. Allapattah Servs., Inc.*, 545 U.S. 546, 568 (2005). Here, although the limited scope of the church plan exemption can be gleaned from the text alone, its legislative history does support the interpretation set

forth above. Specifically, when ERISA was first passed in 1974, the church plan exemption was even narrower than after a later amendment; at first, the exemption comprised only "a plan established and maintained for its employees by a church or by a convention or association of churches." 29 U.S.C. § 1002(33)(A) (1976). As the district court in *Rollins*, sifting through records of testimony before Congress and versions of draft legislation, has explained in detail, this initial version created concern among a number of churches, whose benefit plans were in fact maintained not directly by them but by pension boards set up for that purpose. 19 F. Supp. 3d at 916 (citing Letter from Gary S. Nash, Secretary, Church Alliance for Clarification of ERISA, to Hon. Harrison A Williams, Jr., Chairman, Senate Committee on Human Resources (August 11, 1978) and Senate committee statements). It was in response to this concern—namely, that these church-established but outsider-run plans were not in line with the exemption—that ERISA was ultimately amended to include the language now found in subsection 33(C)(i), passed in 1980 as part of the Multiemployer Pension Plan Amendments Act. *Id.*

Senator Herman E. Talmadge of Georgia, the originator of this amendment, explained that its purpose was to specify that the exemption explicitly included "church plans which rather than being maintained directly by a church are instead maintained by a pension board maintained by a church." *Id*. at 917 (quoting Senate Committee on Finance, Executive Session Minutes, June 12, 1980, at 40). By contrast, aside from including plans maintained by a non-church entity, the rest of the definition of church plan (*i.e.*, the *established*-by-a-church requirement) "would be continued." *Id*. (quoting Senate Labor and Human Resources Committee Report on H.R. 3904,

August 15, 1980); *see also* 126 Cong. Rec. H23049 (daily ed. Aug. 25, 1980) (comments by Representative Ullman on House version of bill). In other words, faced with the fact that many churches delegated the actual management of benefits plans to associated third-party entities as a practical matter, Congress moved to ensure that the church plan exemption reflected this reality. Viewed in this context, Congress's purposeful choice to limit the wording of subsection 33(C)(i) to plans maintained by eligible organizations makes perfect sense, and its omission of those established by such entities appears deliberate.

Consistent with this purpose, too, was Congress' inclusion of subsection 33(C)(ii)(II). As initially enacted, ERISA's church plan exemption included plans benefitting both employees of churches as well as those of related church agencies, but the related-church part of the exemption was set to expire in 1982. Pub. L. 93 406, § 3(33)(C), 88 Stat. 829, 838 (1974). As Advocate points out, members of Congress became concerned that with the impending sunset of this provision, employees of church agencies, despite their work in roles directly tied to the mission of churches, would now fall into the reach of ERISA. Defs.' Br. at 19 (quoting 124 Cong. Rec. 12107 (May 2, 1978) (Rep. Conable)) ("Present law fails to recognize that the church agencies are parts of the church in its work of disseminating religious instruction and caring for the sick, needy and underprivileged."). Thus, subsection 33(C)(ii)(II) was enacted to extend permanently the exemption made for agency employees included within church plans. Advocate would have this amendment signify that Congress also now intended for a plan simply maintained by any self-affiliated organization to qualify (without the need for church establishment),

Defs.' Br. at 19-20, but the legislative history does not support such a broad outcome.

Advocate's brief itself acknowledges that subsection 33(C)(ii)(II) protected employees of applicable, church-related organizations but otherwise "retain[ed] the basic definition of church plan as a plan established and maintained for its employees by a church." *Id*. at 19 (quoting 124 Cong. Rec. 12107 (May 2, 1978) (Rep. Conable)). The concern was to shield employees that did not directly work for the church, but for closely related agencies, and participated in the church's established benefits plan. *See, e.g.*, *Hall*, 774 F. Supp. 2d at 959-60 (describing as church plan a pension plan for employees of hospital set up and run by Roman Catholic order of nuns). No part of the legislative record suggests an intent to allow a church-affiliated corporation to claim the exemption for a plan absent the *church*'s establishment of the plan, as required by the original definition in subsection 33(A).

The takeaway from the legislative history of subsection 33(C) is that it was added to ERISA in response to very specific concerns about existing church plans and their scope. So this legislative context supports the narrow scope of the church plan exemption suggested by the straightforward text of subsection 33(C) and adopted by the Court here.

3.

Finally, in support of its interpretation, Advocate relies on a letter issued to it by the Internal Revenue Service (IRS), R. 35-12, Exh. L, Undated letter from John G. Riddle, Jr., opining that Advocate's plan is a church plan under the tax code provision parallel to the relevant portion of ERISA. Defs.' Br. at 20-22. Advocate argues that the IRS letter-opinion is entitled

to substantial deference, particularly where, as is the case here, it has been addressed directly to, and relied upon by, a party in the litigation. *Id*. at 20. Unfortunately for Advocate, the IRS opinion is not entitled to deference and its contents do not change the outcome.

Agency opinions expressed in letters are not owed the type of deference, explained in *Chevron, U.S.A., Inc. v. Natural Res. Def. Council, Inc.,* 467 U.S. 837, 842-44 (1984), that is owed when an administrative agency interprets a statute through formal adjudication or rulemaking with a notice-and-comment process, *see Christensen v. Harris Cnty.*, 529 U.S. 576, 587 (2000) (citations omitted). Rather, letter-opinions are entitled to respect by courts "only to the extent that those interpretations have the 'power to persuade.'" *Id*. (citing *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944)); *see also Martin v. Occupational Safety and Health Review Comm'n*, 499 U.S. 144, 157 (1991) (agency enforcement guidelines are "not entitled to the same deference as norms that derive from the exercise of . . . delegated lawmaking powers"). In other words, the IRS letter, which reflects merely an advisory opinion and not the product of formal adjudication or rulemaking, should be deferred to only if its interpretation of the statute is convincing. *Bankers Life & Cas. Co. v. United States*, 142 F.3d 973, 978 (7th Cir. 1998) ("Neither the courts nor the IRS may rely on letter rulings as precedent."). Because the opinion relies on the same reasoning rejected above—a mistaken focus only on whether a church-affiliated organization maintains, rather than also established, the plan—it is not persuasive and is owed no deference.

B.

Because the Court concludes that the Advocate plan does not meet the criteria of an exempt church plan under ERISA, it need not reach Plaintiffs' argument in the alternative that the exemption provision violates the Constitution's Establishment Clause. Courts must "avoid constitutional questions if [they] can" and instead settle disputes on the basis of other, non-constitutional arguments. *United States v. Westmoreland*, 240 F.3d 618, 629 (7th Cir. 2001). The constitutional question raised here, whether Congress may permissibly create within ERISA a religious-based exemption for certain employers, must await another day for resolution as Advocate's plan does not, in any event, so qualify.[6] IV. Conclusion

For the reasons set forth above, because Advocate's plan is not entitled to ERISA's church plan exemption as a matter of law, Advocate's motion to dismiss is denied. The Court anticipates one of two possible courses for this litigation to now take. First, Advocate could file an answer to the complaint, which might admit all of the material factual allegations, and the Plaintiffs would respond by moving for judgment on the pleadings. Alternatively, Advocate could move for leave to file an interlocutory appeal of the denial of the motion to dismiss. Or there might be a third option

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[6] The lack of a need to address the constitutional challenge means that the intervention of the United States, which was noticed but made contingent on whether statutory arguments would be sufficient to resolve the motion to dismiss, is unnecessary. *See* R. 41, Notice of Intervention. Additionally, there is no need for the Court to consider the amicus brief of the Becket Fund on the constitutional question. *See* R. 50, Dkt. Entry (granting motion to file amicus brief only if Establishment Clause issue reached).

that the Court has not anticipated. In any event, the parties should be prepared to discuss how best to proceed at the next status hearing, which is accelerated to January 8, 2015, at 9 a.m.

ENTERED:

s/ Edmond E. Chang
Honorable Edmond E. Chang
United States District Judge

DATE: December 31, 2014

APPENDIX C

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

[Filed 01/21/15]

No. 14 C 01873

MARIA STAPLETON ET AL., on behalf of themselves, individually, and on behalf of all others similarly situated, and on behalf of the Advocate Plan,

Plaintiffs,

v.

ADVOCATE HEALTH CARE NETWORK AND SUBSIDIARIES, ET AL.,

Defendants.

Judge Edmond E. Chang

ORDER

Plaintiffs are current and former employees of Defendant Advocate Health Care Network, a non-profit corporation affiliated with two Christian denominations. (The defendants are actually comprised of related Advocate entities and individuals, but for convenience sake, the Order will refer simply to "Advocate.") In this lawsuit, Plaintiffs allege that Advocate has not maintained its pension plan according to standards set by the Employee Retirement Income Security Act (ERISA), 29 U.S.C. § 1001 *et seq.*,

and seek money damages and equitable relief. R.1, Compl.

Advocate moved to dismiss the complaint for failure to state a claim, arguing that the church-plan exemption under ERISA, 29 U.S.C. § 1003(b)(2), applied to Advocate's pension plan.[1] After analyzing the statutory text, statutory framework, and relevant authorities, Opinion at 8-19, the Court concluded that, as defined by ERISA, 29 U.S.C. § 1002(33), in order for a plan to qualify as a "church plan," the plan must be *established* by a church. It is not enough for a plan to be maintained by a church-affiliated entity such as Advocate. Advocate's motion to dismiss was accordingly denied.

The Court agrees with the parties that it is appropriate to certify this question of statutory interpretation for an interlocutory appeal. 28 U.S.C. § 1292(b). Section 1292(b) permits a district judge to certify, and the Court of Appeals to accept (in its discretion), an interlocutory appeal if the "order involves a controlling question of law as to which there is substantial ground for difference of opinion," and if "an immediate appeal from the order may materially advance the ultimate termination of the litigation." § 1292(b). Ordinarily, interlocutory appeals are disfavored (more than disfavored—generally barred), but § 1292(b) is an exception, *Sterk v. Redbox Automated Retail LLC*, 672 F.3d 535, 536 (7th Cir. 2012), and the exception fits here. Advocate wishes to appeal the Court's interpretation of the church-plan exemption, and that

[1] Advocate also argued that the applicability of the church-plan exemption undermines subject matter jurisdiction, but the Opinion explained why the question over the exemption is really only a merits question, not a subject matter jurisdiction question. Opinion at 4-5.

interpretation does present a "controlling question of law," not a mere quarrel with some factual determination or with a characterization of the genuineness of a factual dispute. *See Ahrenholz v. Board of Trustees of University of Illinois*, 219 F.3d 674, 676 (7th Cir. 2000). There is also "substantial ground for difference of opinion," § 1292(b), as to the right answer to the question. As the Opinion explained, and again the parties acknowledge, federal court decisions are all over the map on what is the correct interpretation. Opinion at 11-13.

The final requirement of § 1292(b) is also met: an immediate appeal may materially advance the termination of the suit. If this Court's interpretation of the church-plan exemption is wrong, then the complaint should be dismissed and the case should end. So the question certified is this:

> In order for an employee benefit plan to qualify as a "church plan" under ERISA, 29 U.S.C. § 1003(b)(2) and § 1033, must the plan be established by a church (or by a convention or association of churches)?

ENTERED:

s/ Edmond E. Chang
Honorable Edmond E. Chang
United States District Judge

DATE: January 21, 2015

APPENDIX D

UNITED STATES COURT OF APPEALS
FOR THE SEVENTH CIRCUIT

No. 15-1368

MARIA STAPLETON, ET AL.,

Plaintiffs-Appellees

v.

ADVOCATE HEALTH CARE NETWORK, AN ILLINOIS NON-PROFIT CORPORATION, ET AL.,

Defendants-Appellants

District Court No: 1:14-cv-01873
Northern District of Illinois, Eastern Division
District Judge Edmond E. Chang

April 26, 2016

ORDER

Before ILANA DIAMOND ROVNER, *Circuit Judge*

The following are before the court:

1. APPELLANTS' MOTION TO STAY THE MANDATE PENDING THE FILING AND DISPOSITION OF A PETITION FOR A WRIT OF CERTIORARI, filed on March 31, 2016, by counsel for the appellants.

2. PLAINTIFFS-APPELLEES' RESPONSE TO APPELLANTS' MOTION TO STAY THE MANDATE PENDING THE FILING AND DISPOSITION OF A PETITION FOR A WRIT OF CERTIORARI, filed on April 14, 2016, by counsel for the appellees.

3. APPELLANTS' REPLY IN FURTHER SUPPORT OF THEIR MOTION TO STAY THE MANDATE PENDING THE FILING AND DISPOSITION OF A PETITION FOR A WRIT OF CERTIORARI, filed on April 22, 2016, by counsel for the appellants.

IT IS ORDERED that the motion is GRANTED. The mandate of this court is STAYED until the expiration of the time allowed for filing a petition for writ of certiorari. If a timely petition is filed and appellants notify this court in writing, this stay shall remain in force until the conclusion of all proceedings before the Supreme Court of the United States. *See* Fed. R. App. P. 41(d)(2).

APPENDIX E

1. The First Amendment to the United States Constitution provides in relevant part:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof . . . .

2. 29 U.S.C. §1002(33) provides:

(33)(A) The term "church plan" means a plan established and maintained (to the extent required in clause (ii) of subparagraph (B)) for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 of title 26.

(B) The term "church plan" does not include a plan—

(i) which is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513 of title 26), or

(ii) if less than substantially all of the individuals included in the plan are individuals described in subparagraph (A) or in clause (ii) of subparagraph (C) (or their beneficiaries).

(C) For purposes of this paragraph—

(i) A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches 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 benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

(ii) The term employee of a church or a convention or association of churches includes—

(I) a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation;

(II) an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 of title 26 and which is controlled by or associated with a church or a convention or association of churches; and

(III) an individual described in clause (v).

(iii) A church or a convention or association of churches which is exempt from tax under section 501 of title 26 shall be deemed the employer of any individual included as an employee under clause (ii).

(iv) An organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention or association of churches.

(v) If an employee who is included in a church plan separates from the service of a church or a convention or association of churches or an organization, whether a civil law corporation or otherwise, which is exempt from tax under section

501 of title 26 and which is controlled by or associated with a church or a convention or association of churches, the church plan shall not fail to meet the requirements of this paragraph merely because the plan—

(I) retains the employee's accrued benefit or account for the payment of benefits to the employee or his beneficiaries pursuant to the terms of the plan; or

(II) receives contributions on the employee's behalf after the employee's separation from such service, but only for a period of 5 years after such separation, unless the employee is disabled (within the meaning of the disability provisions of the church plan or, if there are no such provisions in the church plan, within the meaning of section 72(m)(7) of title 26) at the time of such separation from service.

(D)(i) If a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 of title 26 fails to meet one or more of the requirements of this paragraph and corrects its failure to meet such requirements within the correction period, the plan shall be deemed to meet the requirements of this paragraph for the year in which the correction was made and for all prior years.

(ii) If a correction is not made within the correction period, the plan shall be deemed not to meet the requirements of this paragraph beginning with the date on which the earliest failure to meet one or more of such requirements occurred.

(iii) For purposes of this subparagraph, the term "correction period" means—

(I) the period ending 270 days after the date of mailing by the Secretary of the Treasury of a notice of default with respect to the plan's failure to meet one or more of the requirements of this paragraph; or

(II) any period set by a court of competent jurisdiction after a final determination that the plan fails to meet such requirements, or, if the court does not specify such period, any reasonable period determined by the Secretary of the Treasury on the basis of all the facts and circumstances, but in any event not less than 270 days after the determination has become final; or

(III) any additional period which the Secretary of the Treasury determines is reasonable or necessary for the correction of the default,

whichever has the latest ending date.

3. 26 U.S.C. § 414(e) provides:

(e) Church plan

(1) In general

For purposes of this part, the term "church plan" means a plan established and maintained (to the extent required in paragraph (2)(B)) for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501.

(2) Certain plans excluded

The term "church plan" does not include a plan—

(A) which is established and maintained primarily for the benefit of employees (or their beneficiaries) of such church or convention or association of

churches who are employed in connection with one or more unrelated trades or businesses (within the meaning of section 513); or

(B) if less than substantially all of the individuals included in the plan are individuals described in paragraph (1) or (3)(B) (or their beneficiaries).

(3) Definitions and other provisions

For purposes of this subsection—

(A) Treatment as church plan

A plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches 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 benefits or welfare benefits, or both, for the employees of a church or a convention or association of churches, if such organization is controlled by or associated with a church or a convention or association of churches.

(B) Employee defined

The term employee of a church or a convention or association of churches shall include—

(i) a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry, regardless of the source of his compensation;

(ii) an employee of an organization, whether a civil law corporation or otherwise, which is exempt from tax under section 501 and which is controlled by or associated with a church or a convention or association of churches; and

(iii) an individual described in subparagraph (E).

(C) Church treated as employer

A church or a convention or association of churches which is exempt from tax under section 501 shall be deemed the employer of any individual included as an employee under subparagraph (B).

(D) Association with church

An organization, whether a civil law corporation or otherwise, is associated with a church or a convention or association of churches if it shares common religious bonds and convictions with that church or convention or association of churches.

(E) Special rule in case of separation from plan

If an employee who is included in a church plan separates from the service of a church or a convention or association of churches or an organization described in clause (ii) of paragraph (3)(B), the church plan shall not fail to meet the requirements of this subsection merely because the plan—

(i) retains the employee's accrued benefit or account for the payment of benefits to the employee or his beneficiaries pursuant to the terms of the plan; or

(ii) receives contributions on the employee's behalf after the employee's separation from such service, but only for a period of 5 years after such separation, unless the employee is disabled (within the meaning of the disability provisions of the church plan or, if there are no such provisions in the church plan, within the meaning of section

72(m)(7)) at the time of such separation from service.

(4) Correction of failure to meet church plan requirements

(A) In general

If a plan established and maintained for its employees (or their beneficiaries) by a church or by a convention or association of churches which is exempt from tax under section 501 fails to meet one or more of the requirements of this subsection and corrects its failure to meet such requirements within the correction period, the plan shall be deemed to meet the requirements of this subsection for the year in which the correction was made and for all prior years.

(B) Failure to correct

If a correction is not made within the correction period, the plan shall be deemed not to meet the requirements of this subsection beginning with the date on which the earliest failure to meet one or more of such requirements occurred.

(C) Correction period defined

The term "correction period" means—

(i) the period, ending 270 days after the date of mailing by the Secretary of a notice of default with respect to the plan's failure to meet one or more of the requirements of this subsection;

(ii) any period set by a court of competent jurisdiction after a final determination that the plan fails to meet such requirements, or, if the court does not specify such period, any reasonable period determined by the Secretary on the basis of

all the facts and circumstances, but in any event not less than 270 days after the determination has become final; or

(iii) any additional period which the Secretary determines is reasonable or necessary for the correction of the default,

whichever has the latest ending date.

APPENDIX F

DOL Advisory Opinions				
	Date	**Citation**	**Description of Entity That Established Plan**	**Name of Entity That Established Plan**
1.	01/09/ 1985	1985-01A 1985 WL 32792	Healthcare System	Various hospitals in Ohio
2.	03/26/ 1985	1985-14A 1985 WL 32805	Healthcare System	Holy Cross Hospital
3.	09/06/ 1985	1985-32A 1985 WL 32822	Healthcare System	Hospital de la Concepcion
4.	10/21/ 1985	1985-35A 1985 WL 32825	Healthcare System	Holy Redeemer Hospital
5.	06/10/ 1986	1986-18A 1986 WL 38855	Healthcare System	St. Francis Hospital
6.	08/22/ 1986	1986-19A 1986 WL 38856	Healthcare System	St. Agnes Medical Center
7.	12/04/ 1986	1986-25A 1986 WL 38864	Healthcare System	Catholic Health Corporation
8.	05/10/ 1990	1990-12A 1990 WL 123941	Healthcare System	Uihlein Mercy Center, Inc.
9.	05/10/ 1990	1990-13A 1990 WL 123940	Educational Institution	Gwynedd Mercy College
10.	02/26/ 1991	1991-11A 1991 WL 34145	Healthcare System	St. Francis Medical Center, Inc.
11.	02/26/ 1991	1991-12A 1991 WL 34146	Healthcare System	Caledonia Health Care Center, Inc.

12.	02/26/ 1991	1991-10A 1991 WL 34144	Healthcare System	St. Mary's Hospital, Inc.
13.	02/26/ 1991	1991-13A 1991 WL 34147	Healthcare System	St. Joseph's Hospital of Arcadia, Inc.
14.	03/06/ 1991	1991-14A 1991 WL 34148	Healthcare System	Eastern Mercy Health System
15.	07/03/ 1991	1991-22A 1991 WL 122400	Healthcare System	Mercy Health Services of the South, Inc.
16.	07/03/ 1991	1991-23A 1991 WL 313851	Religious Organization	Sisters of Providence, Sacred Heart Province
17.	08/16/ 1991	1991-30A 1991 WL 169347	Healthcare System	Sisters of Charity of Nazareth Health Corporation
18.	11/12/ 1991	1991-43A 1991 WL 255572	Healthcare System	CSJ Health System of Wichita, Inc.
19.	11/12/ 1991	1991-41A 1991 WL 255570	Healthcare System	St. Mary's Hospital, Inc.
20.	12/10/ 1991	1991-45A 1991 WL 268506	International mission work	Baptist Mid-Missions
21.	12/20/ 1991	1991-46A 1991 WL 292567	Healthcare System	St. Joseph Health System
22.	03/24/ 1992	1992-09A 1992 WL 67322	Healthcare System	Franciscan Healthcare Corporation of Colorado Springs (FHCCS)
23.	01/06/ 1993	1993-01A 1993 WL 68524	Healthcare System	Mercy Hospital, Inc.

24.	01/12/ 1993	1993-03A 1993 WL 68526	Healthcare System	Sacred Heart Medical Center, Inc.
25.	03/09/ 1993	1993-08A 1993 WL 97264	Healthcare System; Elder Care Services	Baptist Convention of the State of Georgia: Georgia Baptist Health Care System
26.	03/09/ 1993	1993-07A 1993 WL 97263	Healthcare System	Pittsburgh Mercy Health System, Inc. (PMHS)
27.	02/17/ 1994	1994-04A 1994 WL 58680	Healthcare System	Franciscan Health System
28.	03/08/ 1994	1994-05A 1994 WL 83200	Healthcare System	Eastern Mercy Health System
29.	03/08/ 1994	1994-06A 1994 WL 84834	Nursing Home	Sacred Heart Manor
30.	03/17/ 1994	1994-10A 1994 WL 86985	Elder Care Services	Messiah Home
31.	03/17/ 1994	1994-08A 1994 WL 86983	Healthcare System	The Nazareth Hospital
32.	03/17/ 1994	1994-09A 1994 WL 86984	Healthcare System	St. Peter's Hospital
33.	03/23/ 1994	1994-11A 1994 WL 110683	Healthcare System	Lancaster Mennonite Hospitals
34.	04/04/ 1994	1994-12A 1994 WL 110685	Elderly Housing and Related Elder Care Services	Morningside Ministries
35.	04/04/ 1994	1994-13A 1994 WL 112546	Social Services and social service programs	Lutheran Social Services—East Region

36.	04/20/ 1994	1994-16A 1994 WL 145784	Healthcare System	St. Anthony's Hospital
37.	04/20/ 1994	1994-15A 1994 WL 143957	Healthcare System (health care and living services)	Presbyterian Homes of the Presbytery of Huntingdon
38.	05/23/ 1994	1994-18A 1994 WL 209777	Educational Institution	Theological Seminary of the Presbyterian Church (U.S.A.) a/k/a Princeton Theological Seminary
39.	11/03/ 1994	1994-34A 1994 WL 608800	Educational Institution	St. Francis College of Fort Wayne, Inc.
40.	11/10/ 1994	1994-36A 1994 WL 642271	Healthcare System	St. Anne's Maternity Home
41.	03/06/ 1995	1995-02A 1995 WL 93291	Healthcare System	Jeanes Hospital
42.	06/16/ 1995	1995-10A 1995 WL 486696	Educational Institution	St. Joseph's University
43.	06/16/ 1995	1995-07A 1995 WL 369555	Healthcare System	Providence Services
44.	06/16/ 1995	1995-08A 1995 WL 369556	Healthcare System; Group purchasing and computer services	Sisters of St. Francis Health Services; Alverno Administrative Services, Inc.
45.	06/16/ 1995	1995-09A 1995 WL 369557	Educational Institution	Archmere Academy, Inc.

46.	06/19/ 1995	1995-13A 1995 WL 369560	Healthcare System	Mercy Life Center Corporation
47.	06/19/ 1995	1995-12A 1995 WL 369559	Residential and Educa-tional Ser-vices	House of the Good Shepherd; Good Shepherd Corporation
48.	12/7/ 1995	1995-30A 1995 WL 740297	Educational Institution (Social Ministries)	Allegheny Lutheran Social Ministries, Inc.
49.	07/10/ 1996	1996-10A 1996 WL 386099	Healthcare System (Homecare Services)	Lutheran Home Care Services, Inc.
50.	07/12/ 1996	1996-11A 1996 WL 423471	Healthcare System	Mercy Psychiatric Institute
51.	07/26/ 1996	1996-13A 1996 WL 423473	Educational Institution	La Salle College High School
52.	09/18/ 1996	1996-17A 1996 WL 531542	Healthcare System	Mercy Providence Hospital
53.	09/25/ 1996	1996-18A 1996 WL 556108	Healthcare System	Brook Lane Psychiatric Center, Inc.
54.	09/30/ 1996	1996-19A 1996 WL 556109	Healthcare System	Sisters of Charity of the Incarnate Word
55.	10/31/ 1996	1996-24A 1996 WL 634363	Educational Institution	Moorestown Friends School Association
56.	01/6/ 1997	1997-01A 1997 WL 5391	Healthcare System	ServantCor
57.	02/7/ 1997	1997-04A 1997 WL 75229	Healthcare System	St. Margaret Mercy Healthcare Centers, Inc

58.	02/27/ 1997	1997-07A 1997 WL 94859	Healthcare System	Mercy Hospital of Watertown
59.	03/21/ 1997	1997-09A 1997 WL 139560	Social Services	Tressler Lutheran Services
60.	04/07/ 1997	1997-10A 1997 WL 167654	Retirement Community	Homewood Retirement Centers of the United Church of Christ, Inc.
61.	04/24/ 1997	1997-13A 1997 WL 200790	Educational Institution	Saint Dominic Academy
62.	09/15/ 1997	1997-22A 1997 WL 576596	Retirement Community	Albright Care Services
63.	06/19/ 1998	1998-05A 1998 WL 441032	Retirement Community	Foulkeways at Gwynedd
64.	02/28/ 2000	2000-02A 2000 WL 233746	Educational Institution	Laroche College
65.	05/17/ 2000	2000-05A 2000 WL 744359	Healthcare System	Mercy Health System of Western New York
66	12/22/ 2000	2000 WL 33146430	Religious Organization	American Jewish Joint Distribution Committee, Inc.
67.	12/30/ 2004	2004-11A 2004 WL 3244870	Healthcare System	Mercy Health System; Mercy Life Center Corporation

IRS Private Letter Rulings			
No.	**Date**	**Citation**	**Description of Entity that Established Plan**
1.	January 13, 1983	PLR 8315054, 1983 WL 198031	Hospitals and home for elderly
2.	March 25, 1983	PLR 8325131, 1983 WL 198887	Hospitals
3.	April 1, 1983	PLR 8326165, 1983 WL 204621	Hospital
4.	February 3, 1983	PLR 8318082, 1983 WL 198497	Mission and outreach services
5.	January 31, 1984	PLR 8417119, 1984 WL 266643	Nursing home
6.	July 31, 1984	PLR 8444065, 1984 WL 268070	Hospitals and a college
7.	July 31, 1984	PLR 8444068, 1984 WL 268073	Health care-related institutions and educational institutions
8.	July 12, 1984	PLR 8441055, 1984 WL 268690	Nursing home
9.	September 18, 1984	PLR 8451046, 1984 WL 268902	Hospital
10.	January 18, 1985	PLR 8515110, 1985 WL 292630	Health care
11.	February 7, 1985	PLR 8518079, 1985 WL 292037	Administration center
12.	April 30, 1985	PLR 8530080, 1985 WL	Hospitals

		294246	
13.	April 30, 1985	PLR 8530081, 1985 WL 294247	Hospital
14.	May 16, 1985	PLR 8532070, 1985 WL 293379	Hospital
15.	May 16, 1985	PLR 8532074, 1985 WL 293383	Hospital
16.	June 28, 1985	PLR 8538103, 1985 WL 294458	Educational academies
17.	November 12, 1985	PLR 8606038, 1985 WL 295882	Non-profit corporation that operates educational institutions, hospitals, nursing homes and home health care agencies
18.	December 26, 1985	PLR 8612068, 1985 WL 297663	Hospital
19.	March 26, 1986	PLR 8625073, 1986 WL 369365	Hospital
20.	March 28, 1986	PLR 8625082, 1986 WL 369374	Home health care organization
21.	August 14, 1986	PLR 8645052, 1986 WL 371859	Non-profit corporation that owns educational institutions, hospitals, nursing homes and home health care agencies
22.	May 26, 1987	PLR 8734033, 1987 WL	Health care system

		421325	
23.	September 18, 1987	PLR 8750079, 1987 WL 428748	Hospitals
24.	February 29, 1988/ May 20, 1988	PLR 8820098, 1988 WL 571365	Nonprofit corporation that operates nursing home and residential retirement facilities
25.	March 22, 1988/ June 17, 1988	PLR 8824051, 1988 WL 571733	Health care system
26.	March 22, 1988/ June 17, 1988	PLR 8824049, 1988 WL571731	Health care system
27.	March 22, 1988/ June 17, 1988	PLR 8824050, 1988 WL 571732	Health care system
28.	March 31, 1988/ June 24, 1988	PLR 8825131, 1988 WL 571879	Health care system
29.	April 15, 1988/ July 8, 1988	PLR 8827071, 1988 WL 572030	Health care system
30.	April 15, 1988/ July 8, 1988	PLR 8827070, 1988 WL 572029	Health care system
31.	April 18, 1988/ July 8, 1988	PLR 8827073, 1988 WL 572032	Health care system
32.	April 22, 1988/ July 15, 1988	PLR 8828095, 1988 WL 572127	Health care and educational organizations
33.	April 22, 1988/ July 15, 1988	PLR 8828096, 1988 WL 572128	Health care and educational organizations
34.	April 22, 1988/ July 15, 1988	PLR 8828088, 1988 WL 572120	Health care and educational organizations

35.	April 22, 1988/ July 15, 1988	PLR 8828090, 1988 WL 572122	Health care and educational organizations
36.	April 22, 1988/ July 15, 1988	PLR 8828091, 1988 WL 572123	Health care and educational organizations
37.	April 22, 1988/ July 15, 1988	PLR 8828092, 1988 WL 572124	Health care and educational organizations
38.	April 22, 1988/ July 15, 1988	PLR 8828093, 1988 WL 572125	Health care and educational organizations
39.	April 22, 1988/ July 15, 1988	PLR 8828094, 1988 WL 572126	Health care and educational organizations
40.	April 22, 1988/ July 15, 1988	PLR 8828097, 1988 WL 572129	Health care and educational organizations
41.	April 22, 1988/ July 15, 1988	PLR 8828087, 1988 WL 572119	Health care and educational organizations
42.	April 22, 1988/ July 15, 1988	PLR 8828089, 1988 WL 572121	Health care and educational organizations
43.	April 29, 1988	PLR 8829080, 1988 WL 572210	Hospitals
44.	April 29, 1988	PLR 8829081, 1988 WL 572211	Hospitals
45.	April 29, 1988	PLR 8829079, 1988 WL 572209	Hospitals
46.	April 29, 1988	PLR 8829082, 1988 WL 572212	Hospitals
47.	April 29, 1988	PLR 8829083, 1988 WL 572213	Hospitals
48.	April 29, 1988	PLR 8829084, 1988 WL 572214	Hospitals

49.	April 29, 1988	PLR 8829085, 1988 WL 572215	Hospitals
50.	April 29, 1988	PLR 8829086, 1988 WL 572216	Hospitals
51.	April 29, 1988/ February 4, 1988	PLR 8817084, 1988 WL 571124	Health care entity
52.	May 3, 1988/ July 29, 1988	PLR 8830046, 1988 WL 572265	Nationwide network of health care institutions
53.	May 13, 1988	PLR 8819061, 1988 WL 571246	Hospitals
54.	May 27, 1988/ August 19, 1988	PLR 8833050, 1988 WL 572446	Hospitals
55.	May 27, 1988/ August 19 1988	PLR 8833048, 1988 WL 572444	Hospitals
56.	May 27, 1988/ August 19, 1988	PLR 8833049, 1988 WL 572445	Hospitals
57.	June 13, 1988/ September 2, 1988	PLR 8835061, 1988 WL 572602	Educational and health services
58.	June 17, 1988/ September 9, 1988	PLR 8836068, 1988 WL 572671	Hospitals
59.	June 17, 1988/ September 9, 1988	PLR 8836069, 1988 WL 572672	Hospitals
60.	June 30, 1988/ September 23, 1988	PLR 8838071, 1988 WL 572837	Nonprofit corporation that operates school and hospitals
61.	June 30, 1988/ September 23, 1988	PLR 8838073, 1988 WL 572839	Nonprofit corporation that operates school and hospitals

62.	June 30, 1988/ September 23, 1988	PLR 8838072, 1988 WL 572838	Nonprofit corporation that operates school and hospitals
63.	August 15, 1988/ November 4, 1988	PLR 8844071, 1988 WL 573262	Nationwide network of health care institutions
64.	August 18, 1988/ November 10, 1988	PLR 8845055, 1988 WL 573317	Nationwide network of health care institutions
65.	August 30, 1988/ November 25, 1988	PLR 8847074, 1988 WL 573666	Nationwide network of health care institutions
66.	August 31, 1988/ November 25, 1988	PLR 8847080, 1988 WL 573672	Hospital
67.	September 15, 1988/ December 9, 1988	PLR 8849071, 1988 WL 573827	Nonprofit corporation that operates health care, educational, charitable and
68.	September 16, 1988/ December 9, 1988	PLR 8849076, 1988 WL 573832	Nationwide network of health care institutions
69.	September 16, 1988/ December 9, 1988	PLR 8849077, 1988 WL 573833	Nationwide network of health care institutions
70.	September 16, 1988/ December 9, 1988	PLR 8849078, 1988 WL 573834	Nationwide network of health care institutions
71.	September 28, 1988 December 23, 1988	PLR 8851066, 1988 WL 573528	Hospital
72.	September 28, 1988/ December 23, 1988	PLR 8851070, 1988 WL 573532	Hospital
73.	September 28, 1988/ December 23, 1988	PLR 8851065, 1988 WL 573527	Hospital
74.	September 28, 1988/ December 23, 1988	PLR 8851064, 1988 WL 573526	Hospital

75.	September 28, 1988/ December 23, 1988	PLR 8851073, 1988 WL 573535	Hospital
76.	September 28, 1988/ December 23, 1988	PLR 8851068, 1988 WL 573530	Hospital
77.	September 28, 1988/ December 23, 1988	PLR 8851069, 1988 WL 573531	Hospitals
78.	September 28, 1988/ December 23, 1988	PLR 8851067, 1988 WL 573529	Hospital
79.	September 28, 1988/ December 23, 1988	PLR 8851071, 1988 WL 573533	Nationwide network of health care institutions
80.	September 28, 1988/ December 23, 1988	PLR 8851075, 1988 WL 573537	Nationwide network of health care institutions
81.	October 14, 1988/ January 6, 1989	PLR 8901060, 1989 WL 593342	Nationwide network of health care institutions
82.	October 14, 1988/ January 6, 1989	PLR 8901057, 1989 WL 593339	Nationwide network of health care institutions
83.	October 14, 1988/ January 6, 1989	PLR 8901062, 1989 WL 593344	Nationwide network of health care institutions
84.	October 14, 1988/ January 6, 1989	PLR 8901061, 1989 WL 593343	Nationwide network of health care institutions
85.	October 21, 1988/ January 13, 1989	PLR 8902044, 1989 WL 593392	Nationwide network of health care institutions
86.	October 21, 1988/ January 13, 1989	PLR 8902046, 1989 WL 593394	Nationwide network of health care institutions
87.	October 31, 1988/ January 23, 1989	PLR 8903093, 1989 WL 593495	Health care system
88.	October 31, 1988/ January 23 1989	PLR 8903094, 1989 WL 593496	Health care system

89.	October 31, 1988/ January 23, 1989	PLR 8903095, 1989 WL 593497	Health care system
90.	October 31, 1988/ January 23, 1989	PLR 8903096, 1989 WL 593498	Health care system
91.	October 31, 1988 / January 23, 1989	PLR 8903097, 1989 WL 593499	Health care system
92.	October 31, 1988/ January 23, 1989	PLR 8903103, 1989 WL 593505	Health care system
93.	October 31, 1988/ January 23, 1989	PLR 8903104, 1989 WL 593506	Health care system
94.	October 31, 1988/ January 23, 1989	PLR 8903105, 1989 WL 593507	Health care system
95.	October 31, 1988/ January 23, 1989	PLR 8903098, 1989 WL 593500	Health care system
96.	October 31, 1988/ January 23, 1989	PLR 8903099, 1989 WL 593501	Health care system
97.	October 31, 1988/ January 23, 1989	PLR 8903100, 1989 WL 593502	Health care system
98.	October 31, 1988/ January 23, 1989	PLR 8903102, 1989 WL 593504	Health care system
99.	November 8, 1988/ February 3, 1989	PLR 8905042, 1989 WL 593617	Hospital
100.	November 25, 1988/ February 17, 1989	PLR 8907058, 1989 WL 594442	Health care services
101.	December 9, 1988/ March 3, 1989	PLR 8909062, 1989 WL 594592	Hospital
102.	December 23, 1988	PLR 8851072, 1988 WL 573534	Hospital

103.	December 23, 1988	PLR 8851074, 1988 WL 573536	Hospital
104.	January 6, 1989	PLR 8901058, 1989 WL 593340	Nationwide network of health care institutions
105.	January 23, 1989	PLR 8903101, 1989 WL 593503	Health care system
106.	January 25, 1989/ April 28, 1989	PLR 8917012, 1989 WL 595133	Educational institution
107.	February 17, 1989/ May 12, 1989	PLR 8919066, 1989 WL 595370	Nonprofit corporation that provides health, shelter and spiritual development services
108.	March 17, 1989	PLR 8911074, 1989 WL 594756	Health care system
109.	May 12, 1989/ August 4, 1989	PLR 8931071, 1989 WL 594280	Health care services
110.	May 19, 1989/ August 11, 1989	PLR 8932087, 1989 WL 594381	Health care services
111.	May 19, 1989/ August 11, 1989	PLR 8932088, 1989 WL 594382	Health care services
112.	May 19, 1989/ August 11, 1989	PLR 8932089, 1989 WL 594383	Educational organization
113.	May 23, 1989/ August 18, 1989	PLR 8933032, 1989 WL 595904	Health care services
114.	May 23, 1989/ August 18, 1989	PLR 8933034, 1989 WL 595906	Health care system

115.	May 23, 1989/ August 18 1989	PLR 8933042, 1989 WL 595914	Health care system
116.	May 23, 1989/ August 18, 1989	PLR 8933043, 1989 WL 595915	Health care system
117.	May 23, 1989/ August 18, 1989	PLR 8933044, 1989 WL 595916	Health care system
118.	May 24, 1989/ August 18, 1989	PLR 8933051, 1989 WL 595923	Health care system
119.	May 24, 1989/ August 18, 1989	PLR 8933052, 1989 WL 595924	Health care system
120.	May 25, 1989/ August 18, 1989	PLR 8933055, 1989 WL 595927	Health care system
121.	May 25, 1989/ August 18, 1989	PLR 8933054, 1989 WL 595926	Health care system
122.	May 26, 1989/ August 18, 1989	PLR 8933060, 1989 WL 595932	Health care system
123.	June 8, 1989/ September 1, 1989	PLR 8935052, 1989 WL 596061	Educational institutions
124.	June 8, 1989/ August 25, 1989	PLR 8934078, 1989 WL 596009	Educational institutions
125.	June 13, 1989/ September 8, 1989	PLR 8936052, 1989 WL 596128	Health care system
126.	June 30, 1989/ September 22, 1989	PLR 8938078, 1989 WL 596304	Health care system
127.	July 11, 1989/ October 6, 1989	PLR 8940048, 1989 WL 596417	Health care system
128.	July 18, 1989/ October 13, 1989	PLR 8941045, 1989 WL	Health care system

		596499	
129.	July 19, 1989/ October 13, 1989	PLR 8941060, 1989 WL 596514	Health care system
130.	July 21, 1989/ October 13, 1989	PLR 8941081, 1989 WL 596535	Health care system
131.	July 21, 1989/ October 20, 1989	PLR 8942103, 1989 WL 596643	Entity providing services for the elderly
132.	July 26, 1989/ October 20, 1989	PLR 8942071, 1989 WL 596611	Health care system
133.	July 28, 1989/ October 20, 1989	PLR 8942100, 1989 WL 596640	Health care system
134.	August 9, 1989/ November 3, 1989	PLR 8944048, 1989 WL 596777	Health care system
135.	August 10, 1989/ November 3, 1989	PLR 8944053, 1989 WL 596782	Health care system
136.	August 11, 1989/ November 3, 1989	PLR 8944070, 1989 WL 596799	Health care system
137.	August 11, 1989/ November 3, 1989	PLR 8944073, 1989 WL 596802	Health care system
138.	August 22, 1989/ November 17, 1989	PLR 8946050, 1989 WL 596927	Health care system
139.	September 1, 1989/ November 24, 1989	PLR 8947066, 1989 WL 597028	Health care system
140.	September 12, 1989/ December 8, 1989	PLR 8949051, 1989 WL 597138	Health care system
141.	October 6, 1989/ December 29, 1989	PLR 8952077, 1989 WL5 97430	Educational institutions

142.	October 13, 1989	PLR 8941086, 1989 WL 596540	Health care system
143.	October 20, 1989	PLR 8942043, 1989 WL 596583	Health care system
144.	November 3, 1989	PLR 8944036, 1989 WL 596765	Health care system
145.	November 3, 1989	PLR 8944071, 1989 WL 596800	Health care system
146.	December 21, 1989/ March 16, 1990	PLR 9011048, 1990 WL 698793	Health care system
147	February 15, 1990/ May 11, 1990	PLR 9019067, 1990 WL 699387	Hospital
148.	February 15, 1990/ May 11, 1990	PLR 9019069, 1990 WL 699389	Hospitals and health care facilities
149.	February 15, 1990/ May 11, 1990	PLR 9019066, 1990 WL 699386	Hospital
150.	March 16, 1990	PLR 9011006, 1990 WL 698751	Health care system
151.	March 19, 1990/ June 15, 1990	PLR 9024051, 1990 WL 699718	Nonprofit corporation that operates colleges and
152.	March 20, 1990/ June 15, 1990	PLR 9024060, 1990 WL 699727	Health and educational organizations
153.	March 20, 1990/ June 15, 1990	PLR 9024057, 1990 WL 699724	Educational institutions, hospitals and community health services agency
154.	March 20, 1990/ June 15, 1990	PLR 9024063, 1990 WL	Educational institutions,

		699730	hospitals and community health services agency
155.	March 29, 1990/ June 22. 1990	PLR 9025091, 1990 WL 699845	Hospital
156.	April 23, 1990/ July 20, 1990	PLR 9029039, 1990 WL 708163	Hospitals, long-term care facilities, retirement
157.	April 23, 1990/ July 20, 1990	PLR 9029038, 1990 WL 708162	Hospitals
158.	April 24, 1990/ July 20, 1990	PLR 9029048, 1990 WL 708165	Hospitals and home for aged
159.	April 24, 1990/ July 20, 1990	PLR 9029045, 1990 WL 708164	Hospitals
160.	April 27, 1990/ July 20, 1990	PLR 9029065, 1990 WL 708166	Educational organizations
161.	May 1, 1990/ July 27, 1990	PLR 9030047, 1990 WL 708229	Health care system
162.	May 4, 1990/ July 27, 1990	PLR 9030065, 1990 WL 708230	Hospitals
163.	May 8, 1990/ August 3, 1990	PLR 9031029, 1990 WL 699990	Health care system
164.	May 8, 1990/ August 3, 1990	PLR 9031038, 1990 WL 699999	Health care facilities
165.	May 14, 1990/ August 10, 1990	PLR 9032022, 1990 WL 700035	Educational and health care facilities
166.	May 14, 1990/ August 10, 1990	PLR 9032024, 1990 WL 700037	Health care facilities
167.	May 14, 1990 /	PLR 9032019,	Hospital

	August 10, 1990	1990 WL 700032	
168.	May 29, 1990/ August 24, 1990	PLR 9034047, 1990 WL 700178	Charitable day care center
169.	June 12, 1990/ September 7, 1990	PLR 9036026, 1990 WL 700320	Hospital commission
170.	June 5, 1990/ August 31, 1990	PLR 9035053, 1990 WL 700266	Health care and social services
171.	June 5, 1990/ August 31, 1990	PLR 9035054, 1990 WL 700267	Hospital
172.	June 7, 1990/ August 31, 1990	PLR 9035077, 1990 WL 700290	Hospital
173.	June 8, 1990/ August 31, 1990	PLR 9035080, 1990 WL 700293	Retirement and health care services for aging
174.	June 19, 1990/ September 21, 1990	PLR 9038059, 1990 WL 700467	Retirement homes
175.	June 25, 1990/ October 12, 1990	PLR 9041004, 1990 WL 700585	Hospital
176.	June 29, 1990/ September 21, 1990	PLR 9038060, 1990 WL 700468	Retirement and nursing centers
177.	June 29, 1990/ September 21, 1990	PLR 9038058, 1990 WL 700466	Hospital
178.	July 2, 1990/ September 28, 1990	PLR 9039037, 1990 WL 700506	Hospital
179.	July 6, 1990	PLR 9027052, 1990 WL 699961	Hospitals
180.	July 6, 1990	PLR 9027048, 1990 WL 699957	Hospitals, nursing school, medical school

181.	July 11, 1990/ October 5, 1990	PLR 9040057, 1990 WL 700568	Hospital
182.	July 11, 1990/ October 12, 1990	PLR 9040056, 1990 WL 700567	Operation of nursing homes
183.	August 1, 1990/ October 26, 1990	PLR 9043057, 1990 WL 700786	Hospitals
184.	September 24, 1990/ December 21, 1990 /	PLR 9051016, 1990 WL 701282	Health care and educational organizations
185.	September 28, 1990/ December 21, 1990	PLR 9051047, 1990 WL 701313	Hospitals
186.	October 16, 1990/ January 11, 1991	PLR 9102032, 1991 WL 777289	Hospital
187.	November 21, 1990/ February 15, 1991	PLR 9107035, 1991 WL 777527	Schools
188.	November 21, 1990/ February 15, 1991	PLR 9107034, 1991 WL 777526	Hospital
189.	November 28, 1990/ February 22, 1991	PLR 9108051, 1991 WL 777580	Hospitals
190.	January 8, 1991/ April 5, 1991	PLR 9114026, 1991 WL 777892	Hospitals
191.	January 30, 1991/ April 26, 1991	PLR 91 17060, 1991 WL 778497	Hospitals and nursing homes
192.	January 30, 1991/ April 26, 1991	PLR 91 17059, 1991 WL 778496	Hospitals and nursing homes
193.	March 1, 1991/ May 24, 1991	PLR 9121066, 1991 WL 778716	Educational institution
194.	March 7, 1991/ May 31, 1991	PLR 9122078, 1991 WL 778797	Hospitals

195.	March 13, 1991/ June 7, 1991	PLR 9123045, 1991 WL 778846	Hospital
196.	March 18, 1991/ June 14 1991	PLR 9124027, 1991 WL 778895	Health care organization
197.	May 2, 1991/ July 26, 1991	PLR 9130043, 1991 WL 779262	Health care system
198.	May 29, 1991/ August 23, 1991	PLR 9134021, 1991 WL 779455	Hospital
199.	June 14, 1991/ September 6, 1991	PLR 9136036, 1991 WL 778021	Hospitals, health care and related services
200.	June 15, 1991/ August 30, 1991	PLR 9135052, 1991 WL 777977	Health care system
201.	July 11, 1991/ October 4, 1991	PLR 9140071, 1991 WL 778245	Publishing house
202.	August 9, 1991/ November 1, 1991	PLR 9144039, 1991 WL 779590	Entity providing services to the elderly
203.	October 4, 1991/ December 27, 1991	PLR 9152048, 1991 WL 780007	Hospital
204.	October 29, 1991/ January 24, 1992	PLR 9204034, 1992 WL 800923	Hospital
205.	December 20, 1991	PLR 9151035, 1991 WL 779945	Schools
206.	January 29, 1992/ April 24, 1992	PLR 9217041, 1992 WL 801471	Hospital
207.	March 4, 1992/ May 29, 1992	PLR 9222054, 1992 WL 801776	Hospital
208	March 16, 1992/ June 12, 1992	PLR 9224044, 1992 WL 801886	Nursing homes

209.	March 24, 1992/ June 19, 1992	PLR 9225033, 1992 WL 801931	Hospital
210.	April 2, 1992/ June 26, 1992	PLR 9226072, 1992 WL 808864	Hospital
211.	April 3, 1992/ June 26, 1992	PLR 9226077, 1992 WL 808869	Health care services
212.	April 21, 1992/ July 17, 1992	PLR 9229031, 1992 WL 808984	Educational, health care and children's support institutions
213.	May 21, 1992/ August 14, 1992	PLR 9233051, 1992 WL 195050	Hospital
214.	July 2, 1992/ September 25, 1992	PLR 9239043, 1992 WL 235508	Hospital
215.	August 10, 1992/ November 6, 1992	PLR 9245030, 1992 WL 323032	Hospitals
216.	August 21, 1992/ November 6, 1992	PLR 9245046, 1992 WL 320326	Hospital
217.	August 20, 1992/ November 13, 1992	PLR 9246045, 1992 WL 329103	Hospital
218.	September 29, 1992/ December 24, 1992	PLR 9252032, 1992 WL 385434	Hospital, skilled care facility and an intermediate care facility
219.	November 6, 1992/ January 29, 1993	PLR 9304035, 1992 WL 421253	Non-profit retirement home
220.	November 23, 1992/ February 19, 1993	PLR 9307017, 1992 WL442847	Hospital
221.	December 3, 1992/ February 26, 1993	PLR 9308043, 1992 WL 448026	Hospital

222.	December 16, 1992/ March 12, 1993	PLR 9310040, 1992 WL 454474	Hospital
223.	December 18, 1992/ March 12, 1993	PLR 9310055, 1992 WL 454975	Non-profit institution of higher learning
224.	December 29, 1992/ March 26, 1993	PLR 9312031, 1992 WL 464277	Extended care facility
225.	January 12, 1993/ April 9, 1993	PLR 9314049, 1993 WL 107746	Hospital
226.	January 19, 1993/ April 16, 1993	PLR 9315022, 1993 WL 115675	Health care entity
227.	March 3, 1993 / May 28, 1993	PLR 9321074, 1993 WL 183396	System of acute, extended, and restorative health care institutions
228.	March 9, 1993 / June 4, 1993	PLR 9322032, 1993 WL 187060	Nursing homes and independent living facilities
229.	March 16, 1993 / June 11, 1993	PLR 9323031, 1993 WL 196373	Hospital
230.	March 18, 1993 / June 18, 1993	PLR 9324013, 1993 WL 211270	Hospital
231.	March 23, 1993 / June 18, 1993	PLR 9324031, 1993 WL 211280	Community and teaching hospitals and related facilities
232.	March 29, 1993 / June 25, 1993	PLR 9325044, 1993 WL 222185	Hospital
233.	April 16, 1993 / July 9, 1993	PLR 9327093, 1993 WL 247413	Hospitals
234.	April 19, 1993 / July 16, 1993	PLR 9328031, 1993 WL 262383	Hospital

235.	May 21, 1993 / August 13, 1993	PLR 9332045, 1993 WL 305015	Homes for aged and other dependent persons
236.	July 8, 1993 / October 1, 1993	PLR 9339025, 1993 WL 385092	Community and teaching hospitals and related facilities
237.	July 15, 1993 / October 8, 1993	PLR 9340059, 1993 WL 397587	Non-profit corporation in business of acquiring,
238.	July 20, 1993 / October 15, 1993	PLR 9341028, 1993 WL 408853	Hospitals
239.	August 4, 1993 / October 29, 1993	PLR 9343037, 1993 WL 436126	Hospital
240.	September 2, 1993/ November 26, 1993	PLR 9347039, 1993 WL 484617	Hospital
241.	September 13, 1993/ December 10, 1993	PLR 9349021, 1993 WL 504915	Hospitals
242.	September 28, 1993/ December 24, 1993	PLR 9351037, 1993 WL 529684	Health care institutions
243.	October 14, 1993/ January 7, 1994	PLR 9401036, 1993 WL 544929	Educational entity
244.	November 4, 1993/ January 28, 1994	PLR 9404031, 1993 WL 563007	Hospital
245.	December 8, 1993/ March 4, 1994	PLR 9409042, 1993 WL 596409	Hospitals and related health-care institutions
246.	December 22, 1993/ March 18, 1994	PLR 9411045, 1993 WL 602989	Hospital

247.	January 7, 1994/ April 1, 1994	PLR 9413049, 1994 WL 109199	Hospitals and other medical facilities
248.	February 4, 1994/ April 29, 1994	PLR 9417047, 1994 WL 155975	Hospital
249.	February 24, 1994/ May 20, 1994	PLR 9420038, 1994 WL 195775	Nursing home
250.	February 25, 1994/ May 20, 1994	PLR 9420040, 1994 WL 195777	Hospital
251.	March 24, 1994/ June 17, 1994	PLR 9424068, 1994 WL 265323	Hospital
252.	April 13, 1994/ July 8, 1994	PLR 9427031, 1994 WL 322704	Hospital
253.	April 20, 1994/ July 15, 1994	PLR 9428036, 1994 WL 368786	Hospital
254.	April 21, 1994/ July 15, 1994	PLR 9428038, 1994 WL 368788	Senior citizen retirement communities
255.	April 26, 1994/ July 22, 1994	PLR 9429024, 1994 WL 381319	Nursing home
256.	May 12, 1994/ August 5, 1994	PLR 9431053, 1994 WL 407408	Hospital
257.	May 19, 1994/ August 12, 1994	PLR 9432027, 1994 WL 420372	Secondary education schools
258.	June 15, 1994/ September 9, 1994	PLR 9436061, 1994 WL 485543	Nursing home
259.	July 7, 1994/ October 14, 1994	PLR 9441012, 1994 WL 559931	Schools
260.	July 18, 1994/ October 14, 1994	PLR 9441040, 1994 WL	Non-profit corporation that

		559959	owns and operates health care facilities
261.	July 21, 1994/ October 14, 1994	PLR 9441044, 1994 WL 559963	Nursing home
262.	July 21, 1994/ October 14, 1994	PLR 9441041, 1994 WL 559960	Hospital
263.	July 27, 1994/ October 21, 1994	PLR 9442033, 1994 WL 576806	Home to provide for poor, destitute and homeless children
264.	July 28, 1994/ October 21, 1994	PLR 9442034, 1994 WL 576807	Health care facilities
265.	August 5, 1994/ October 28, 1994	PLR 9443043, 1994 WL 589289	University
266.	August 8, 1994/ November 4, 1994	PLR 9444036, 1994 WL 602253	Hospital
267.	August 11, 1994/ November 4, 1994	PLR 9444055, 1994 WL 602272	Hospitals
268.	August 18, 1994/ November 10, 1994	PLR 9445031, 1994 WL 622097	Medical center
269.	August 19, 1994/ November 10, 1994	PLR 9445030, 1994 WL 622096	Nonprofit facility dedicated to serving physically challenged and elderly individuals
270.	August 24, 1994/ November 18, 1994	PLR 9446037, 1994 WL 648763	Nonprofit corporation that carries out religious, charitable and educational mission of church
271.	August 30, 1994/	PLR 9447054,	Hospital

	November 25, 1994	1994 WL 659770	
272.	June 24, 1994/ September 16, 1994	PLR 9437045, 1994 WL 503623	Nursing Facility
273.	September 9, 1994/ December 2, 1994	PLR 9448048, 1994 WL 671961	Hospital
274.	September 12, 1994/ December 9, 1994	PLR 9449015, 1994 WL 686014	Health care facility
275.	September 16, 1994/ December 9, 1994	PLR 9449023, 1994 WL 686022	Nonprofit corporation that provides services to elderly
276.	September 20, 1994/ December 16, 1994	PLR 9450031, 1994 WL 701909	Charitable non-profit corporation
277.	September 27, 1994/ December 23, 1994	PLR 9451063, 1994 WL 709991	Education institution
278.	September 29, 1994/ December 23, 1994	PLR 9451070, 1994 WL 709998	Hospital
279.	September 29, 1994/ December 23, 1994	PLR 9451071, 1994 WL 709999	Hospital
280.	July 8, 1994/ September 30, 1994	PLR 9439021, 1994 WL 528737	Health care system
281.	September 30, 1994/ December 23, 1994	PLR 9451084, 1994 WL 710012	Health care entity
282.	September 30, 1994/ December 23, 1994	PLR 9451081, 1994 WL 710009	Health care entity
283.	September 30, 1994/ December 23, 1994	PLR 9451080, 1994 WL 710008	Health care entity
284.	September 30, 1994/ December 23, 1994	PLR 9451083, 1994 WL	Hospital

		710011	
285.	September 30, 1994/ December 23, 1994	PLR 9451086, 1994 WL 710014	Hospital
286.	October 6, 1994/ December 30, 1994	PLR 9452047, 1994 WL 719269	Health care system
287.	November 1, 1994/ January 27, 1995	PLR 9504043, 1994 WL 741325	Non-profit corporation dedicated to the provision of charitable, healthcare, and community services
288.	November 3, 1994/ January 27, 1995	PLR 9504046, 1994 WL 741328	Hospital
289.	November 7, 1994/ February 3, 1995	PLR 9505021, 1994 WL 747917	Non-profit health care administration corporation
290.	November 23, 1994/ February 17, 1995	PLR 9507042, 1994 WL 760201	Hospital
291.	November 23, 1994/ February 17, 1995	PLR 9507043, 1994 WL 760202	Health care entity
292.	December 1, 1994/ February 24, 1995	PLR 9508038, 1994 WL 761764	Hospital
293.	December 14, 1994/ March 10, 1995	PLR 9510067, 1994 WL 770977	Acute-care hospital facility
294.	January 2, 1995/ March 31, 1995	PLR 9513018, 1995 WL 137965	Academy
295.	January 25, 1995/ April 21, 1995	PLR 9516054, 1995 WL 234000	Society for the protection of destitute children
296.	January 31, 1995/ April 28, 1995	PLR 9517045, 1995 WL	Health care entity

		246955	
297.	February 6, 1995/ May 5, 1995	PLR 9518020, 1995 WL 260647	Nonprofit that operated health care and other facilities.
298.	February 24, 1995/ May 19, 1995	PLR 9520053, 1995 WL 303393	Hospitals
299.	February 28, 1995/ May 26, 1995	PLR 9521033, 1995 WL 317961	Nonprofit membership organization
300.	March 1, 1995/ May 26, 1995	PLR 9521038, 1995 WL 317966	Nonprofit corporation
301.	March 9, 1995/ June 2, 1995	PLR 9522055, 1995 WL 327513	Educational and religious services
302.	March 14, 1995/ June 9, 1995	PLR 9523026, 1995 WL 346857	Hospital
303.	March 22, 1995/ June 16, 1995	PLR 9524029, 1995 WL 359287	Social service agency
304.	March 28, 1995/ June 23, 1995	PLR 9525061, 1995 WL 372553	Hospital
305.	March 29, 1995/ June 23, 1995	PLR 9525066, 1995 WL 372558	Non-profit parent corporation of health care facilities
306.	April 3, 1995/ June 30, 1995	PLR 9526022, 1995 WL 386107	University
307.	April 19, 1995/ July 14, 1995	PLR 9528033, 1995 WL 414113	Hospital
308.	May 8, 1995/ August 4, 1995	PLR 9531034, 1995 WL 459577	Non-profit charitable corporation
309.	May 16, 1995/ August 11, 1995	PLR 9532033, 1995 WL	Health and medical facility

		474448	
310.	June 5, 1995/ September 1, 1995	PLR 9535046, 1995 WL 517834	Hospital
311.	June 23, 1995/ September 15 1995	PLR 9537034, 1995 WL 550724	Non-profit corporation that operates nursing homes
312.	July 31, 1995/ October 27, 1995	PLR 9543044, 1995 WL 632203	Non-profit corporation
313.	August 25, 1995/ November 17, 1995	PLR 9546033, 1995 WL 686466	Hospitals
314.	August 29, 1995/ November 24, 1995	PLR 9547033, 1995 WL 693640	Health service entity
315.	September 1, 1995/ November 24, 1995	PLR 9547048, 1995 WL 693655	School
316.	September 6, 1995/ December 1, 1995	PLR 9548033, 1995 WL 705917	Hospital
317.	September 15, 1995/ December 8, 1995	PLR 9549036, 1995 WL 724060	Non-profit corporation
318.	September 20, 1995/ December 15, 1995	PLR 9550037, 1995 WL 743716	Hospital
319.	September 28, 1995/ December 22, 1995	PLR 9551041, 1995 WL 756463	Hospital
320.	September 29, 1995/ December 22, 1995	PLR 9551042, 1995 WL 756464	Non-profit corporation engaged in medical-related services
321.	October 2, 1995/ December 29, 1995	PLR 9552050, 1995 WL 764888	Health Facility
322.	October 15, 1995/	PLR 9552054,	Hospital

	December 29, 1995	1995 WL 764892	
323.	December 5, 1995/ March 1, 1996	PLR 9609038, 1996 WL 87790	Nonprofit corporation that conducts religious and educational activities
324.	January 31, 1996/ April 26, 1996	PLR 9617047, 1996 WL 202064	Hospital
326.	February 13, 1996/ May 10, 1996	PLR 9619073, 1996 WL 241530	Non-profit corporation that operates mental health facilities
327.	February 28, 1996/ May 24, 1996	PLR 9621044, 1996 WL 275680	Non-profit corporation that provides Christian education
328.	March 1, 1996/ May 24, 1996	PLR 9621046, 1996 WL 275682	Social services agency
329.	March 19, 1996/ June 14, 1996	PLR 9624027, 1996 WL 326434	Medical System
330.	March 27, 1996/ June 21, 1996	PLR 9625056, 1996 WL 340359	Hospital
331.	April 10, 1996/ July 5, 1996	PLR 9627025, 1996 WL 374443	Hospital
332.	April 11, 1996/ July 5, 1996	PLR 9627028, 1996 WL 374446	Hospital
333.	April 19, 1996/ July 19, 1996	PLR 9629015, 1996 WL 404743	Mental health facility
334.	April 30, 1996/ July 26, 1996	PLR 9630037, 1996 WL 417988	Non-profit organization that provides health care services to the poor

335.	May 8, 1996/ July 26, 1996	PLR 9630042, 1996 WL 417993	School
336.	May 16, 1996/ August 9, 1996	PLR 9632018, 1996 WL 448646	Home for the developmentally disabled
337.	May 20, 1996/ August 16, 1996	PLR 9633035, 1996 WL 465963	Hospital
338.	June 13, 1996/ September 13, 1996	PLR 9637035, 1996 WL 518939	Non-profit organization that operates a high school
339.	June 25, 1996/ September 13, 1996	PLR 9637056, 1996 WL 518960	Community for the elderly
340.	July 17, 1996/ October 11, 1996	PLR 9641032, 1996 WL 584455	Health care institutions
341.	August 2, 1996/ October 25, 1996	PLR 9643038, 1996 WL 616086	Hospital
342.	August 5, 1996/ November 1, 1996	PLR 9644062, 1996 WL 633154	Non-profit that operates and owns retirement and nursing facilities
343.	August 26, 1996/ November 22, 1996	PLR 9647024, 1996 WL 674624	Hospital
344.	September 30, 1996/ December 27, 1996	PLR 9652023, 1996 WL 737730	Elderly care services organization
345.	October 16, 1996/ January 10, 1997	PLR 9702035, 1997 WL 8229	Non-profit corporation dedicated to religious education
346.	October 29, 1996/ January 24, 1997	PLR 9704020, 1997 WL 26121	Parent corporation of 50 health, shelter and spiritual

			development services
347.	November 4, 1996/ January 31, 1997	PLR 9705021, 1997 WL 36130	Charitable organization
348.	December 31, 1996/ March 28, 1997	PLR 9713021, 1997 WL 140957	Hospital
349.	January 31, 1997/ April 25, 1997	PLR 9717039, 1997 WL 200940	Hospital
350.	February 10, 1997/ May 9, 1997	PLR 9719037, 1997 WL 236025	Nursing Home
351.	February 13, 1997/ May 9, 1997	PLR 9719042, 1997 WL 236030	College preparatory school for girls
352.	March 18, 1997/ June 13, 1997	PLR 9724023, 1997 WL 320065	Hospitals
353.	March 28, 1997/ June 20, 1997	PLR 9725043, 1997 WL 337377	Non-profit corporation
354.	April 8, 1997/ July 3, 1997	PLR 9727032, 1997 WL 366260	School
355.	April 16, 1997/ July 11, 1997	PLR 9728046, 1997 WL 382016	Health care facility
356.	April 28, 1997/ July 25, 1997	PLR 9730026, 1997 WL 41 5396	Hospital
357.	April 28, 1997/ July 25, 1997	PLR 9730027, 1997 WL 415397	Hospital
358.	April 28, 1997/ July 25, 1997	PLR 9730031, 1997 WL 415401	Non-profit corporation that provides planning and
359.	April 28, 1997/ July 25, 1997	PLR 9730030, 1997 WL 41	Hospital

		5400	
360.	April 28, 1997/ July 25, 1997	PLR 9730028, 1997 WL 415398	Hospital
361.	April 28, 1997/ July 25, 1997	PLR 9730029, 1997 WL 415399	Home health agency
362.	May 27, 1997/ August 22, 1997	PLR 9734053, 1997 WL 477025	Hospital
363.	July 25, 1997/ October 17, 1997	PLR 9742038, 1997 WL 639487	Communal Welfare Organization
364.	August 18, 1997/ November 14, 1997	PLR 9746055, 1997 WL 708302	Entity that assists immigrants and refugees
365.	August 27, 1997/ November 21, 1997	PLR 9747043, 1997 WL 723543	Medical Services
366.	September 3, 1997/ November 28, 1997	PLR 9748036, 1997 WL 734343	Services and facilities for aging
367.	September 30, 1997/ December 29, 1997	PLR 9752069, 1997 WL 788137	Hospital facilities
368.	October 30, 1997/ January 23, 1998	PLR 9804060, 1998 WL 22237	Hospital
369.	November 14, 1997/ February 6, 1998	PLR 9806015, 1998 WL 45511	Home for elderly
370.	November 17, 1997/ February 13, 1998	PLR 9807024, 1998 WL 57897	Entity provides services for Native Americans
371.	January 10, 1998/ July 2, 1998	PLR 9827001, 1998 WL 352867	Hospital
372.	January 29, 1998/ April 22, 1988	PLR 8816068, 1988 WL 571028	Hospitals

373.	January 29, 1998/ April 22, 1988	PLR 8816075, 1988 WL 571035	Hospitals
374.	March 4, 1998/ May 29, 1998	PLR 9822054, 1998 WL 273503	Hospital and health care provider
375.	March 18, 1998/ June 12, 1998	PLR 9824049, 1998 WL 308432	Hospital
376.	March 26, 1998/ June 19, 1998	PLR 9825036, 1998 WL 322644	Hospital
377.	March 26, 1998/ June 19, 1998	PLR 9825037, 1998 WL 322645	Entity with purpose of furthering health care
378.	April 24, 1998/ July 17, 1998	PLR 9829060, 1998 WL 398709	Hospital
379.	April 28, 1998/ July 24, 1998	PLR 9830031, 1998 WL 414968	Hospital
380.	August 6, 1998/ October 30, 1998	PLR 9844039, 1998 WL 756795	Hospital
381.	August 19, 1998/ November 13, 1998	PLR 9846037, 1998 WL 789781	Entity that provides management and administrative services to health care affiliates
382.	August 20, 1998/ November 13, 1998	PLR 9846046, 1998 WL 789790	Health care system
383.	August 20, 1998/ November 13, 1998	PLR 9846043, 1998 WL 789787	Missionary activities
384.	August 24, 1998/ November 20, 1998	PLR 9847024, 1998 WL 803382	Hospital
385.	August 24, 1998/ November 20, 1998	PLR 9847023, 1998 WL	Hospital

		803381	
386.	September 1, 1998/ November 27, 1998	PLR 9848021, 1998 WL 815871	Hospital
387.	September 10, 1998/ December 4, 1998	PLR 9849026, 1998 WL 835487	Non-profit corporation that fundraises money for religious nonprofits
388.	September 28, 1998/ December 25, 1998	PLR 9852025, 1998 WL 894986	Hospital
389.	September 28, 1998/ December 25, 1998	PLR 9852024, 1998 WL 894985	Non-profit corporation that owns and operates health care facilities
390.	September 29, 1998/ December 25, 1998	PLR 9852045, 1998 WL 895006	Non-profit human services organization
391.	September 30, 1998/ December 25, 1998	PLR 9852050, 1998 WL 895011	Health care system
392.	October 5, 1998/ December 31, 1998	PLR 9853053, 1998 WL 908419	Residential home for the aged
393.	October 15, 1998/ January 8, 1999	1999 WL 5707 (IRS PLR)	Hospital
394.	November 3, 1998/ January 29, 1999	PLR 199904041, 1999 WL 36831	Non-profit corporation that owns and operates hospitals
395.	December 22, 1998/ March 19, 1999	PLR 199911059, 1999 WL 148595	Nonprofit corporation that provides elderly and nursing care
396.	February 18, 1999/ May 14, 1999	PLR 199919040, 1999 WL 302318	Services for the sick and needy
397.	July 1, 1999/ September 24, 1999	PLR 199938049,	Services for elderly

		1999 WL 744411	
398.	March 16, 1999/ June 11, 1999	PLR 199923055, 1999 WL 379204	Services for elderly
399.	March 29, 1999/ June 25, 1999	PLR 199925049, 1999 WL 424876	Hospital
400.	April 5, 1999/ July 2, 1999	PLR 199926046, 1999 WL 448257	Non-profit corporation
401.	May 14, 1999/ August 6, 1999	PLR 199931053, 1999 WL 589485	Non-profit corporation
402.	May 28, 1999/ August 20, 1999	PLR 199933053, 1999 WL 634191	Educational facility
403.	July 28, 1999/ October 22, 1999	PLR 199942051, 1999 WL 963195	Women's education facility
404.	July 29, 1999/ October 22, 1999	PLR 199942053, 1999 WL 963197	Hospital
405.	September 7, 1999/ December 3, 1999	PLR 199948035, 1999 WL 1100130	Acute care hospital
406.	June 21, 1999/ September 17, 1999	PLR 199937047, 1999 WL 723037	Health care services
407.	September 30, 1999/ December 24 1999	PLR 199951049, 1999 WL 1247323	Hospital

408.	October 18, 1999/ January 14, 2000	PLR 200002050, 2000 WL 26462	Corporation is multi-institutional health care delivery system
409.	November 19, 1999/ February 11, 2000	PLR 200006058, 2000 WL 147482	Hospital
410.	November 23, 1999/ February 18, 2000	PLR 200007036, 2000 WL 193750	Management company for health care entities
411.	December 15, 1999/ March 10, 2000	PLR 200010059, 2000 WL 1183567	Hospital
412.	February 23, 2000/ June 2, 2000	PLR 200022057, 2000 WL 1930611	Hospital
413.	March 3, 2000/ May 25, 2000	PLR 200021063, 2000 WL 681292	Entity to support missionary services
414.	March 15, 2000/ June 9, 2000	PLR 200023055, 2000 WL 1998084	Hospital
415.	March 20, 2000/ June 9, 2000	PLR 200023057, 2000 WL 1998090	Corporation involved in health care
416.	March 28, 2000/ June 23, 2000	PLR 200025061, 2000 WL 33116067	University
417.	April 4, 2000/ June 30 2000	PLR 200026030, 2000 WL 33116102	Hospital
418.	June 15, 2000/	PLR	Hospital

	September 8, 2000	200036051, 2000 WL 33119678	
419.	July 26, 2000/ October 20, 2000	PLR 200042029, 2000 WL 33120334	Hospital
420.	August 7, 2000/ November 3, 2000	PLR 200044043, 2000 WL 33122065	Hospital
421.	August 8, 2000/ October 27, 2000	PLR 200043055, 2000 WL 33120394	Health care organizations
422.	August 30, 2000/ November 22, 2000	PLR 200047050, 2000 WL 33122197	Homes for aged
423.	September 8, 2000/ December 1, 2000	PLR 200048050, 2000 WL 33123788	Hospitals
424.	September 26, 2000/ December 22, 2000	PLR 200051050, 2000 WL 33126656	Health care facility
425.	November 22, 2000/ February 16, 2001	PLR 200107042, 2001 WL 129023	Health services
426.	November 28, 2000/ February 23, 2001	PLR 200108044, 2001 WL 175906	Elder care
427.	November 29, 2000/ February 23, 2001	PLR 200 I 08050, 2001 WL 175912	Health care
428.	March 19, 2001/ June 15, 2001	PLR 200124025, 2001 WL 670874	School

429.	March 29, 2001/ June 22, 2001	PLR 200125095, 2001 WL 702264	Education
430.	June 11, 2001/ September 7, 2001	PLR 200136027, 2001 WL 1022039	Hospital
431.	July 16, 2001/ November 30, 2001	PLR 200148055, 2001 WL 1521718	Homes for the elderly
432.	July 26, 2001/ December 7, 2001	PLR 200149038, 2001 WL 1559050	Elder care
433.	November 19, 2001/ February 15, 2002	PLR 200207027, 2002 WL 228637	Elder care
434.	May 2, 2002/ July 26, 2002	PLR 200230043, 2002 WL 1730132	University
435.	June 3, 2002/ August 30, 2002	PLR 200235032, 2002 WL 1999533	Home for elderly
436.	June 10, 2002/ September 6, 2002	PLR 200236048, 2002 WL 31003399	Hospitals and health care organizations
437.	June 12, 2002/ September 6, 2002	PLR 200236046, 2002 WL 31003397	Residential and treatment services
438.	July 3, 2002/ September 27, 2002	PLR 200239036, 2002 WL 31 152989	Resident care facility for the sick and elderly
439.	July 16, 2002/ October 11, 2002	PLR 200241051, 2002 WL	Health, shelter, and spiritual

		31273130	development services
440.	July 31, 2002/ October 25, 2002	PLR 200243053, 2002 WL 31402509	Health care system
441.	August 19, 2002/ May 16, 2003	PLR 200320028, 2003 WL 21130126	Health care system
442.	September 23, 2002/ December 20, 2002	PLR 200251015, 2002 WL 31846285	Non-profit college
443.	October 15, 2002/ April 25, 2003	PLR 200317029, 2003 WL 1950950	Health care system
444.	November 4, 2002/ April 25, 2003	PLR 200317030, 2003 WL 1950951	Health care system
445.	November 5, 2002/ January 31, 2003	PLR 200305031, 2003 WL 205114	Health care system
446.	November 22, 2002/ February 14, 2003	PLR 200307097, 2003 WL 329402	Hospitals
447.	November 22, 2002/ February 14, 2003	PLR 200307096, 2003 WL 329401	Hospitals
448.	November 26, 2002/ April 25, 2003	PLR 200317035, 2003 WL 1950956	Nursing home
449.	December 3, 2002/ April 25, 2003	PLR 200317038, 2003 WL 1950959	Medical center

450.	December 12, 2002/ April 25, 2003	PLR 200317039, 2003 WL 1950960	Health care system
451.	December 13, 2002/ March 7, 2003	PLR 200310025, 2003 WL 874128	Health care system
452.	December 30, 2002/ March 28, 2003	PLR 200313019, 2003 WL 1606074	Hospital
453.	January 16, 2003/ April 18, 2003	PLR 200316044, 2003 WL 1901408	Hospital
454.	March 13, 2003/ June 6, 2003	PLR 200323048, 2003 WL 21300922	Medical center
455.	April 2, 2003/ June 27, 2003	PLR 200326045, 2003 WL 21483128	Nursing homes and assisted living centers
456.	April 30, 2003/ July 25, 2003	PLR 200330042, 2003 WL 21718726	Hospital
457.	May 9, 2003/ August 1, 2003	PLR 200331010, 2003 WL 21774646	Health care system
458.	June 23, 2003/ September 19, 2003	PLR 200338020, 2003 WL 22208696	Social services agency
459.	June 26, 2003/ September 19, 2003	PLR 200338021, 2003 WL 22208697	Medical center
460.	September 4, 2003/ November 28, 2003	PLR 200348030,	Hospitals

		2003 WL 22814651	
461.	September 17, 2003/ December 12, 2003	PLR 200350021, 2003 WL 22931717	Medical center
462.	October 8, 2003/ January 2, 2004	PLR 20040 l 022, 2004 WL 23301	Health care system
463.	May 21, 2004/ August 13, 2004	PLR 200433021, 2004 WL 1803764	Health care system
464.	June 9, 2004/ September 3, 2004	PLR 200436013, 2004 WL 1950352	Charitable work
465.	August 2, 2004/ October 29, 2004	PLR 200444046, 2004 WL 2419383	Hospital
466.	December 15, 2004/ March 11, 2005	PLR 200510043, 2005 WL 568660	Seminary
467.	January 10, 2005/ April 8, 2005	PLR 200514025, 2005 WL 807270	Services to persons with developmental disabilities
468.	November 28, 2006/ February 23, 2007	PLR 200708090, 2007 WL 550201	School
469.	August 2, 2007/ October 26, 2007	PLR 200743036, 2007 WL 3123978	College
470.	August 30, 2007/ November 23, 2007	PLR 200747022, 2007 WL 4141480	Hospital

471.	January 25, 2008/ April 18, 2008	PLR 200816031, 2008 WL 1766191	Religious organization
472.	March 7, 2012/ June 1, 2012	PLR 201222052, 2012 WL 1961462	Educational services
473.	March 19, 2012/ June 15, 2012	PLR 201224042, 2012 WL 2164609	Lobbying; educational programs
474.	May 3, 2012 / July 27, 2012	PLR 201230031, 2012 WL 3057842	College
475.	May 25, 2012/ August 17, 2012	PLR 201233027, 2012 WL 3540133	Charitable work
476.	October 18, 2012/ January 11, 2013	PLR 201302045, 2013 WL 139103	School
477.	October 22, 2012/ January 18, 2013	PLR 201303024, 2013 WL 203360	Hospitals
478.	November 26, 2012/ February 22, 2013	PLR 201308033, 2013 WL 653327	Educational institution
479.	December 3, 2012/ March 1, 2013	PLR 201309028, 2013 WL 771310	Health care system
480.	February 6, 2013/ May 3, 2013	PLR 201318030, 2013 WL 1854155	Hospitals
481.	February 8, 2013/ May 10, 2013	PLR 201319036,	Hospitals

		2013 WL 1928485	
482.	March 8, 2013/ May 31, 2013	PLR 201322051, 2013 WL 2370081	Educational institution
483.	May 22, 2013/ August 16, 2013	PLR 201333024, 2013 WL 4388285	Educational institution
484.	July 3, 2013/ September 27, 2013	PLR 201339004, 2013 WL 5394367	Educational institution
485.	August 14, 2013/ November 8, 2013	PLR 201345041, 2013 WL 6038333	Various charitable works
486.	August 14, 2013/ November 8 2013	PLR 201345042, 2013 WL 6038334	Hospital
487.	September 16, 2013/ December 13, 2013	PLR 201350048, 2013 WL 6536905	Health care programs
488.	January 13, 2014/ April 11, 2014	PLR 201415015, 2014 WL 1399249	Retirement care facility
489.	February 27, 2014/ May 23, 2014	PLR 201421031, 2014 WL 2136100	Elder care center
490.	March 24, 2014/ June 20. 2014	PLR 201425025, 2014 WL 2800197	Various charitable works
491.	May 16, 2014/ August 8, 2014	PLR 201432028, 2014 WL 3882655	Educational institution

492.	July 21, 2014/ October 17, 2014	PLR 201442072, 2014 WL 5302986	Various charitable works
493.	November 3, 2014/ January 30, 2015	PLR 201505048 (IRS PLR), 2015 WL 389734	Residential care for people with disabilities
494.	November 3, 2014/ January 30, 2015	PLR 201505049 (IRS PLR), 2015 WL 389735	Daycare
495.	November 3, 2014/ January 30, 2015	PLR 201505050 (IRS PLR), 2015 WL 389736	Senior care center
496.	November 3, 2014/ January 30, 2015	PLR 201505051 (IRS PLR), 2015 WL 389737	Senior care center
497.	June 9, 2015/ September 11, 2015	PLR 201537025 (IRS PLR), 2015 WL 5297634	Elder care facility for religious order
498.	June 17, 2015/ September 18, 2015	PLR 201538023 (IRS PLR), 2015 WL 5471502	Ministry and various charitable works
499.	June 17, 2015/ September 18, 2015	PLR 201538024 (IRS PLR), 2015 WL 5471503	Church and school
500.	July 27, 2015/ October 23, 2015	PLR 201543012 (IRS PLR),	College

		2015 WL 6408755	
501.	September 16, 2015/ December 18, 2015	PLR 201551004 (IRS PLR), 2015 WL 9245327	University