Traditional Contract Rules Determine Whether Retirees Are Entitled to Lifetime Healthcare Benefits

Insights
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Today, in a unanimous decision, the U.S. Supreme Court held that courts must apply ordinary rules of contract interpretation when determining whether retiree healthcare benefits vest for life pursuant to the terms of a collective bargaining agreement. Writing for the Court, Justice Thomas wrote a scathing opinion overruling the 6th Circuit's underlying decision, which had relied on *UAW v. Yard-Man* and its progeny to try to establish a presumption of lifetime vesting. *M&G Polymers USA, LLC v. Tackett*.

As the justices agreed, the *Yard-Man* case does not apply ordinary principles of contract law and instead places "a thumb on the scale in favor of vested retiree benefits." The Court struck the *Yard-Man* presumption and remanded the case to the 6th Circuit to apply ordinary contract principles.

Background
Since 2000, M&G Polymers USA, LLC (M&G) has operated a chemical plant in Apple Grove, West Virginia. The plant workers are members of a local union that negotiated a series of collective bargaining agreements (CBAs) with M&G. As is common, the parties negotiated a separate pension and insurance agreement (Agreement) that was adopted by reference into the CBAs. The Agreement contained terms for the vesting of union employee pensions and the provision of benefits, including health insurance benefits.

In 2006, M&G advised retirees from the West Virginia plant that they would be required to contribute to their healthcare costs, whereas employees actively working under the CBA did not have to contribute to their healthcare costs. The union and the retirees objected, alleging the retirees had a right to vested, lifetime healthcare benefits without contributing to the cost of premiums based on language in the Agreement referring to a "full Company contribution towards the cost of benefits." The Agreement was otherwise silent as to vesting of the previously provided health benefits upon retirement.

M&G relied on the plain language of the Agreement to assert that health benefits ceased upon retirement. It argued that the absence of any duration on health insurance benefits with the clear lifetime vesting provision for pension terms was evidence that no lifetime health benefits for retirees was intended by the parties. It also cited language in the Agreement that the employer will provide the healthcare benefits described only "for the duration of this Agreement." In addition, M&G pointed to a side agreement that obligated retirees to make contributions toward healthcare costs that exceeded the negotiated cap.

Resolving a Three-Way Circuit Split

The Supreme Court was asked what rules to apply in interpreting the duration of a conferred health benefit in a CBA when the CBA is silent on the vesting of benefits upon retirement. Appellate courts had previously considered the question and had come to three different conclusions.

The U.S. Court of Appeals for the 3rd Circuit adopted the "clear statement rule," which requires any claim of benefit vesting to be based on an express statement in the CBA. For the 3rd Circuit, silence as to duration means that the benefits end when the contract ends.

The exact opposite rule was adopted by the 6th Circuit, from which this case was appealed. The 6th Circuit applied its *Yard-Man* presumption, which states that where a CBA does not contain explicit terms as to vesting of benefits, a court will presume that the parties intended retiree welfare benefits to continue for life.

The U.S. Courts of Appeal for the 2nd and 7th Circuits adopted a middle ground. Those appellate courts apply ordinary rules of contract interpretation, which allows the court to evaluate the intent of the parties without any presumption one way or the other.

Ordinary Rules of Contract Interpretation Must be Applied

The Supreme Court reversed the 6th Circuit, doing away with the *Yard-Man* presumption and its progeny and calling it a "thumb on the scale in favor of retiree benefits" that is at odds with traditional rules of contract interpretation. The Court declined to then perform the actual interpretation of the contract, instead remanding it back to the 6th Circuit so that it could review the Agreement under "the correct legal principles."

Justice Thomas suggested a number of ways in which *Yard-Man* failed to analyze the contract under normal contract principles, including the review of industry custom supported by record evidence. The Court also found that the 6th Circuit had ignored traditional rules such as that ambiguous contract terms should not be construed as lifetime promises, and that contractual obligations in collective bargaining agreements will cease upon termination of the bargaining agreement. Justice Thomas instructed the 6th Circuit to try again – to conduct a contract analysis under traditional rules and *without* relying on *Yard-Man* or any of its progeny.

In her concurrence, Justice Ginsburg agreed with the majority, but also included a directive contrary to the 3rd Circuit's rule requiring "clear and express" language in order to show that parties to a collective bargaining agreement intended healthcare benefits to vest. Justice Ginsburg, joined by Justices Breyer, Sotomayor and Kagan, instead recommend that on remand, the Court of Appeals should examine the entire Agreement to determine whether the parties intended retiree healthcare benefits to vest, surviving the expiration of the collective bargaining agreement.

What This Means for Employers

If you have an existing CBA at your company, you should review it to determine whether lifetime vesting is explicitly and unambiguously addressed in the agreement. Should such a provision be challenged by an employee, the court will apply ordinary contract principles to determine whether the parties intended to provide lifetime vesting for retiree health benefits. While silence or ambiguity as to this term will not create a *presumption* of lifetime vesting (the former rule from *Yard-Man)*, a court could still rule that the parties intended lifetime vesting after engaging in a traditional contract interpretation analysis.

For many employers, this important term will already be explicitly addressed in their CBAs. *Amicus curiae* briefs filed in the case reflected that approximately 60% of CBAs explicitly state that health benefits *do not* vest at retirement. These employers can stop a traditional contract interpretation challenge due to the unambiguous written terms of the contract.

If, however, an existing CBA remains silent or ambiguous as to this term, the intent of the parties will be left to the judgment of a court. The Supreme Court provided a list of areas that a court should evaluate before coming to a conclusion as to the intent of parties. But relying on an ambiguous term is a dangerous and arbitrary way to contract, as pointedly summarized by Justice Scalia during oral argument in the matter:

> You know, the nice thing about a contract case of this sort is you can't feel bad about it. Whoever loses deserves to lose. I mean, this is obviously an important feature. Both sides knew it was left unaddressed, so whoever loses deserves to lose for casting this upon us when it could have been said very clearly in the contract. Such an important feature. So I hope we'll get it right, but, you know, I can't feel bad about it.

Today's decision is favorable to employers but in actuality, it is an affirmation of the neutral principles of contract interpretation, which favor neither employee nor employer. The entire case should be used as a cautionary tale about using clear language when drafting contracts to make sure that the terms of a contract are those decided by the parties, and not by the courts.

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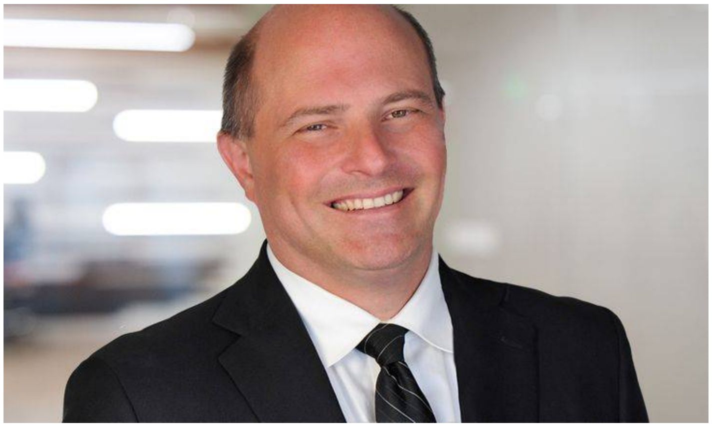

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