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U.S. Supreme Court Rejects the *Yard-Man* Inference Vesting Lifetime Benefits for Union Retirees

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In *M&G Polymers USA, LLC v. Tackett*,[1] the U.S. Supreme Court overturned three decades of precedent by the U.S. Court of Appeals for the Sixth Circuit, unanimously ruling that, when no specific provision in a collective-bargaining agreement (CBA) addresses the duration of retiree benefits, reviewing courts may not infer that the parties intended those benefits to vest for life. All nine justices agreed that courts must apply "ordinary principles of contract law" to determine the parties' intent.

The Court split sharply, however, regarding which of those principles are salient. Five justices emphasized principles that weigh *against* a finding of lifetime benefits, including the principle that courts should not construe ambiguous writings to create lifetime promises and that general durational clauses apply to provisions governing retiree benefits. Four concurring justices, by contrast, emphasized principles that weigh *for* a finding of lifetime benefits, including the observations that survivor-benefits clauses and provisions that retirees "will receive" healthcare benefits may suggest an intent to provide lifetime benefits. Thus, although it is clear that *M&G Polymers* is an employer-friendly decision, the decision unsettles the law concerning retiree benefits for all Circuits, including those that have traditionally been more employer-friendly. The full impact of the decision will only be understood as lower courts address which "ordinary principles of contract law" are most critical.

Since 1983, the rule in the Sixth Circuit has been that retiree benefits vest for life unless there is specific plan or CBA language to the contrary.[2] Known as the "*Yard-Man* inference," this presumption had been extended throughout the years to find lifetime vesting of retiree benefits—even in cases where employers negotiated contract language arguably intended to prevent vesting. Although *Yard-Man* was binding only in the Sixth Circuit, the *Yard-Man* inference has also influenced the law in other jurisdictions.

1 574 U.S. ___ (2015); 2015 U.S. LEXIS 759 (Jan. 26, 2015).

2 *See Int'l Union, United Automobile, Aerospace, & Agricultural Implement Workers of Am. v. Yard-Man, Inc.*, 716 F.2d 1476 (6th Cir. 1983).

The series of events that would overturn *Yard-Man* began in 2000, when M&G entered into a CBA with the Union[3] representing bargaining-unit employees at the plant. M&G and the Union also entered a Pension, Insurance, and Service Award Agreement (P&I Agreement) that provided for retiree health care benefits subject to renegotiation after three years. The parties returned to the bargaining table and, in 2005, incorporated into their CBA a Letter of Understanding pertaining to the P&I Agreement that (1) referenced prior employer-contribution caps to retiree health benefits contained in the CBAs of M&G's predecessors, (2) imposed new caps to employer contributions, and (3) could require retirees to begin contributing to their premiums starting January 1, 2006.[4]

Invoking the P&I Agreement, in December 2006, M&G announced a requirement that retirees contribute to the cost of their health care benefits, pursuant to the Letter of Understanding. Three named retirees filed a class-action lawsuit against M&G and its company-sponsored health plans, alleging that the new requirement breached the CBA and violated the Labor Management Relations Act (LMRA), and the Employee Retirement Income Security Act (ERISA). After the case wound through the trial and appellate courts, the Sixth Circuit ultimately applied the *Yard-Man* inference to affirm that preceding CBAs vested a right to lifetime contribution-free retiree health care benefits for those who retired before M&G and the Union renegotiated their contract in 2005.[5]

In vacating the Sixth Circuit's decision, the Supreme Court unequivocally rejected the *Yard-Man* inference, reasoning that it "violates ordinary contract principles by placing a thumb on the scale in favor of vested retiree benefits in all collective-bargaining agreements."[6] Specifically, the Court criticized the premises underlying the *Yard-Man* inference, which are not rooted in the facts of any particular labor negotiation and which detract from the fundamental aim of contract interpretation—to discern the intent of the actual parties to the agreement:

- Although the Supreme Court noted that courts may look to known industry customs or usages to determine the meaning of a contract, it faulted the Sixth Circuit for assuming—without factual support and as applied across multiple industries—that employers and unions customarily vest retiree benefits.
- The Court rejected the *Yard-Man* premise that retiree health care benefits are a form of deferred compensation and therefore intended to continue for as long as the beneficiary remains a retiree, because this interpretation directly contradicts the ERISA definition of deferred compensation.
- The Court chided the *Yard-Man* inference's disregard of general durational clauses, such as a CBA's expiration date, which, under ordinary contract principles, would apply to provisions governing retiree benefits.
- Similarly, the Court found the *Yard-Man* inference incompatible with the principle that contract obligations generally end when a CBA expires.
- In the same vein, the Court condemned the *Yard-Man* inference's inversion of the traditional contract-interpretation principle that courts should not construe ambiguous contracts to create lifetime promises.

What Does This Mean for Employers?

By annihilating the *Yard-Man* inference, *M&G Polymers* clearly strengthens employers' hands; the only remaining question is, how much? The Court remanded the case to the Sixth Circuit to apply ordinary principles of contract law. The majority opinion, as noted above, emphasizes those principles that militate against a finding of lifetime benefits. A concurring opinion by Justice Ginsburg (joined by Justice Breyer, Justice Sotomayor, and Justice Kagan), however, directs attention to contract-interpretation principles that could support the opposite conclusion, noting that because pension plans vest as deferred compensation under ERISA, a CBA provision that links retirees' entitlement to health care benefits to their receipt of pension benefits may suggest a right to lifetime benefits. The concurring justices also reasoned that contractual language conferring survivor benefits to a retiree's surviving spouse until death or remarriage may also suggest a right to lifetime benefits. The full significance of *M&G Polymers* will only be known after lower courts apply this conflicting guidance in future cases.

3 United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union, AFL-CIO-CLC.

4 *Tackett v. M&G Polymers USA, LLC*, 523 F. Supp. 2d 684, 689 (S.D. Ohio 2007).

5 *Tackett v. M&G Polymers USA, LLC*, 733 F.3d 589 (6th Cir. 2013).

6 2015 U.S. LEXIS 759 at *18.

For now, however, there are several practical lessons employers may draw from the opinion:

- There is a benefit to including unambiguous contract language in a CBA that retiree benefits are for the duration of the CBA only. By gutting the *Yard-Man* inference, the Supreme Court made clear that such language will be enforced.
- There is still a reason to include "reservation of rights" clauses in summary plan descriptions and other communications to employees relating to retiree benefits, to support CBA language incorporating the benefit plans by reference, and to avert fiduciary misrepresentation claims that arise when retirees are allegedly misled into thinking they have lifetime benefits.
- As a failsafe, employers should maintain detailed records of their contract negotiations with unions that reflect the parties' positions throughout bargaining, as this can lend valuable extrinsic evidence of the parties' intent.

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