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## Supreme Court Rejects *Yard-Man* Inference of Lifetime Vesting of Retiree Health Benefits

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*This article was published in the Vol. 41, No. 1, Summer 2015 issue of Employee Relations Law Journal*

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*The Supreme Court's recent unanimous decision in M&G Polymers USA, LLC v. Tackett, No. 13-1010, 2015 WL 303218 (S. Ct. January 26, 2015) confirms that ordinary principles of contract law should be observed when interpreting collective bargaining agreements. The Court vacated the Sixth Circuit's decision and overturned its so-called "Yard-Man inference," which some courts have relied on for over three decades to infer intent on the part of bargaining parties to vest retiree health benefits beyond the term of collective bargaining agreements, often for the lifetime of the retiree. Other Circuits did not follow Yard-Man, resulting in uncertainty for employers as to which Circuits decisions would control when claims arose for vested retiree health benefits. After Tackett, courts should no longer interpret collective bargaining agreements which are silent as to the duration of such benefits by inferring intent from extrinsic evidence favoring employees.*

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### Background

The petitioners in *Tackett* were employed at the Point Pleasant Manufacturing Plant, which was purchased by M&G Polymers in 2000. M&G Polymers entered into a collective bargaining agreement (CBA) with the union representing employees of the plant. The CBA provided for a full employer contribution for the cost of health benefits for certain employees who retired on or after January 1, 1996. The CBA provided for a renegotiation of its terms in three years.

In subsequent negotiations, the bargaining parties agreed in 2005 that M&G Polymers could require retirees to begin contributing to their premiums starting January 1, 2006. When M&G Polymers announced in 2006 a requirement that retirees contribute to the cost of their health benefits, the retirees filed a class-

action lawsuit under the Labor Management Relations Act (LMRA) and the Employee Retirement Income Security Act of 1974 (ERISA). The retirees alleged that:

- M&G Polymers had promised to provide lifetime contribution-free health care benefits for them, their spouses and their dependents; and
- With this promise, M&G Polymers had created a vested right to such benefits that extended beyond the term of the CBA.

The district court dismissed the retiree's complaint, finding that the CBA language did not create a vested right to benefits. The U.S. Court of Appeals for the Sixth Circuit reversed based on the reasoning in its earlier decision in *International Union, United Auto., Aerospace & Agric. Implement Workers of Am. v. Yard-Man*, 716 F. 2d 1476 (6th Cir. 1983), in which the Court relied on the "context" of labor negotiations to infer that the parties to the CBA would intend for retiree benefits to vest for life because such benefits are "not mandatory" or required to be included in collective bargaining agreements. In 2014, the Supreme Court agreed to review the case.

### The *Yard-Man* Inference

The facts in *Yard-Man* are very similar to those in *Tackett*. The employer advised the union that it was shutting down a factory and would end the payment of retiree medical benefits on the last day of the collective bargaining agreement. The union sued on behalf of the covered employees, alleging that the retiree medical benefits were lifetime benefits that could not be eliminated. The intended duration of the retiree medical benefits was unclear from the contract.

The Sixth Circuit ruled in favor of the union, holding that the bargaining parties intended to provide lifetime retiree medical benefits. The Sixth Circuit reasoned that benefits for retirees are only permissive, and not mandatory, subjects of bargaining and, as such, it is unlikely that such benefits, which are typically understood as a form of delayed compensation or reward for past services, would be left to the contingencies of future negotiation.

The Sixth Circuit's holding finding intent to vest union retiree benefits could be inferred when the ERISA plan document or collective bargaining agreement is ambiguous is known as the "*Yard-Man* inference."

### Supreme Court's Decision

In *Tackett*, the Supreme Court rejected the *Yard-Man* inference applied by the Sixth Circuit, holding that this inference rests on principles incompatible with ordinary contract law. It also rejected the Sixth Circuit's assertion that retiree health care benefits are a form of deferred compensation and that such benefits are not subject to mandatory collective bargaining. Further, the Supreme Court was highly critical of the Sixth Circuit's holding, citing the following flaws in its rationale:

- *Yard-Man* distorts the attempt to ascertain the intention of the parties by tipping the scale in favor of vested retiree benefits in all collective bargaining agreements.
- The Sixth Circuit applied its own beliefs about the intention of the parties negotiating retiree benefits that were too speculative and too far removed from the context of any particular contract to be helpful in discerning the parties' intent.
- The general refusal to apply durational clauses to provisions governing retiree benefits conflicts with the principle that a written agreement between parties is encompassed within its four corners.

- The Sixth Circuit improperly interpreted the principle that contracts should be interpreted to avoid illusory promises.

The Supreme Court also criticized the Sixth Circuit for failing to consider other principles under ordinary contract law:

- Courts should not construe ambiguous writings to create lifetime promises; and
- Contractual obligations will cease in the ordinary course, upon termination of the collective bargaining agreement.

The Supreme Court's holding makes very clear that while principles of contract law do not preclude finding that bargaining parties intended to vest lifetime benefits for retirees, when a contract is silent as to the duration of lifetime benefits, a court may not infer that the parties intended those benefits to vest for life.

### Implications of *Tackett*

While ERISA imposes strict requirements for the funding of and vesting of participants under pension benefit plans, welfare benefit plans are not required to be funded or vested. As health care costs have continued to escalate, employers have found the cost of providing medical benefits to retirees for their lifetime to be an extremely costly and burdensome proposition. Many employers who had at one time offered lifetime retiree health benefits are now taking steps to cut back or eliminate these benefits. As a result, we have seen a dramatic increase in litigation addressing vested rights as they pertain to retiree health benefits. The *Yard-Man* inference has been extremely unfavorable for employers subject to vested rights litigation in the Sixth Circuit and other courts that have followed *Yard-Man*.

The Supreme Court decision in *Tackett* marks a significant break from three decades of precedence that originated with *Yard-Man*. While the *Tackett* decision is welcome news for employers with retiree health benefit provisions in collective bargaining agreements, there is still ambiguity as to whether and when contracts will be found to be ambiguous as to the duration of retiree health benefits. The lesson to be drawn from these cases is that bargaining parties should explicitly define the duration of any non-pension benefits to be provided to retirees pursuant to collective bargaining agreements.

The *Tackett* decision provides employers facing claims for vested retiree health benefits brought pursuant to collective bargaining agreements and other contracts greater certainty that when courts interpret ambiguous contracts, extrinsic evidence will be viewed without an inference in favor of employees. Employers with employees covered by a collective bargaining agreement should review the agreement to determine whether changes should be negotiated in the next round of bargaining.

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