M&G Polymers USA, LLC v. Tackett, No. 13-1010 (described in the May 5, 2014, Docket Report)

Employees and unions often enter into collective-bargaining agreements ("CBAs") that provide employees with health-care benefits upon retirement. The Supreme Court granted certiorari in *M&G Polymers USA, LLC v. Tackett*, No. 13-1010, to determine whether those health-care benefits for retirees survive the expiration of the CBA.

In a unanimous decision authored by Justice Thomas and issued today, the Court rejected the Sixth Circuit's *Yard-Man* presumption that retiree health-care benefits are permanent and held that the interpretation of a CBA must be guided instead by ordinary rules of contract interpretation.

In this case, a group of retirees had been receiving contribution-free health-care benefits under the terms of a CBA. That CBA expired and was replaced by a new CBA that required retirees to make contributions toward their health-care benefits. The retirees (along with their spouses and labor union) filed suit under the Labor Management Relations Act, 1947 (LMRA), and the Employee Retirement Income Securities Act of 1974 (ERISA). After a bench trial, the district court found that the retirees' health benefits had vested, such that they could not be revoked by a later amendment to the CBA. The Sixth Circuit affirmed, applying a "presumption that, in the absence of extrinsic evidence to the contrary, the agreements indicated an intent to vest lifetime contribution-free benefits" to the retirees.

The Supreme Court vacated and remanded, holding that the Sixth Circuit's inferences favoring vesting are "inconsistent with ordinary principles of contract law," which apply to collective bargaining agreements. Under the rule announced today, in interpreting CBAs, courts must "ascertain the intention of *the parties*," and should not make an "assessment of likely behavior in collective bargaining" that is "removed from the context of any particular contract." To that end, parties must offer evidence of "known customs or usages in a particular industry to determine the meaning" of the CBA. And courts may not rely on "inferences" about collective bargaining behavior to displace "the text of the agreement."

The Court left the interpretation of the particular agreement at issue for the lower courts on remand. Nevertheless, Justice Thomas's opinion indicates that he doubts that the retirees should prevail. Indeed, his opinion rejects the three explanations most commonly offered in support of the claim that employee benefits vest for life—that they are deferred compensation, that they must be curtailed by a specific durational clause, and that their duration is tied to the lifetime payment of pension benefits. In an apparent effort to counteract the impression that the Court was directing a particular outcome on remand, Justice Ginsburg filed a concurring opinion, joined by Justices Breyer, Sotomayor, and Kagan. In her concurrence, Justice Ginsburg explained that she joined Justice Thomas's opinion because she agrees with its emphasis on the rules of contract interpretation, and she identified contractual provisions that may bear on the interpretation on remand. The provisions identified in her opinion indicate that, even without an inference, she would find that retiree benefits have vested.

The *M&G Polymers* decision has significance to employers with unionized work forces. Whether health benefits have vested under a CBA may have a tremendous impact on such employers' anticipated costs and future bargaining flexibility. Courts implementing the Supreme Court's decision are likely to resolve vesting issues by relying more heavily on the terms of the parties' contract, as well as evidence presented by the parties about industry custom and practice.

Any questions about this case should be directed to Nancy G. Ross (+1 312 701 8788) in our Chicago office or Brian D. Netter (+1 202 263 3339) in our Washington office.