

Mackey Vs. Lanier Collection Agcy.

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Appeal No. : 486 U.S. 825

Appellant : Mackey

Respondent : Lanier Collection Agcy.

Judgement :

Mackey v. Lanier Collection Agcy. - 486 U.S. 825 (1988)

U.S. Supreme Court Mackey v. Lanier Collection Agcy., 486 U.S. 825 (1988)

Mackey v. Lanier Collection Agency & Service, Inc.,

No. 86-1387

Argued April 19, 1988

Decided June 17, 1988

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CERTIORARI TO THE SUPREME COURT OF GEORGIA

SYLLABUS

After respondent collection agency obtained money judgments against participants in an "employee welfare benefit plan" covered by the Employee Retirement Income Security Act of 1974 (ERISA), its request to garnish the debtors' plan benefits was granted by a Georgia trial court. The State Court of Appeals reversed, holding that Ga.Code Ann. 18-4-22.1 (1982), barring the garnishment of "[f]unds or benefits of [an] . . . employee benefit plan or program subject to . . . [ERISA]," exempted plan benefits from garnishment. The Georgia Supreme Court reversed, concluding that 18-4-22.1 was preempted by ERISA, and that the plan was therefore subject to garnishment under the general state garnishment law.

HELD

1. Section 18-4-22.1, which singles out ERISA employee welfare benefit plans for different treatment than non-ERISA welfare plans under state garnishment procedures, is preempted under 514(a) of ERISA, which supersedes any state law insofar as it "relate[s] to" ERISA-covered plans. The state statute's express reference to ERISA plans brings it within the federal law's preemptive reach. *Shaw v. Delta Air Lines, Inc.*, [463 U. S. 85](#) . Moreover, the possibility that 18-4-22.1 was enacted to help effectuate ERISA's underlying purposes is not enough to save it from preemption, since 514(a) displaces all state laws that fall within its sphere, including those that are consistent with ERISA's substantive requirements. *Metropolitan Life Ins. Co. v. Massachusetts*, [471 U. S. 724](#) . Pp. [486 U. S. 829](#) - 830.

2. Congress did not intend to preempt state law garnishment of an ERISA welfare benefit plan, even where the purpose is to collect judgments against plan participants. Pp. 486 U. S. 830 -840.

(a) Unlike 18-4-22.1, Georgia's general garnishment statute does not single out or specially mention ERISA plans of any kind. The argument that, because the general statute requires plan trustees such as petitioners to respond to garnishment orders with funds otherwise due beneficiary-debtors, and to incur substantial administrative burdens and costs, the statute consequently "relates to" the plan within the meaning of 514(a) is refuted by certain other ERISA provisions,

and by several aspects of that statute's structure. Although 502(d) provides that a

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plan may "sue or be sued" as an entity for specified relief and clearly contemplates the enforcement of money judgments against a plan, and although lawsuits against ERISA plans for run-of-the-mill state law contract or tort claims are relatively commonplace, ERISA does not provide an enforcement mechanism for collecting judgments won in either type of action. In lieu of such a provision, state law collection methods, including garnishment, remain undisturbed by ERISA. See Fed.Rule Civ.Proc. 69(a). Section 514(a)'s language does not support petitioners' attempt to distinguish, as permissible, garnishment to collect plan creditors' judgments from, as impermissible, garnishment on behalf of plan participants' judgment creditors. The fact that 206(d)(1)'s ban on alienation or assignment is limited to pension benefits also supports the conclusion that Congress did not intend to preclude garnishment of welfare plan benefits. Section 514(a) cannot be read to protect only benefits, but not plans, from garnishment, since 206(d)(1) demonstrates Congress' ability to distinguish between benefits and plans when it wished, and since such a construction would render 206(d)(1) substantially redundant with 514(a), and therefore superfluous. Pp. [486 U. S. 831](#) -838.

(b) Petitioners' contention that the Retirement Equity Act of 1984 -- which specified that 514(a)'s preemption provision does not apply to "qualified domestic relations orders" -- establishes that 514(a), as originally enacted, preempts state attachment and garnishment procedures on the theory that, otherwise, an amendment to save such orders would have been unnecessary, is not persuasive. An equally plausible explanation for the amendment is that Congress meant to clarify the original meaning of 514(a) by correcting court decisions that had erroneously construed the section as preempting such orders. Even if petitioners' contention is correct, the opinion of a later Congress as to the meaning of a law enacted 10 years earlier does not control the issue. Rather, ERISA's language and structure demonstrate the intent of the Congress that originally enacted 514(a) not to preempt state garnishment procedures. Pp. 486 U. S. 838 -840.

256 Ga. 499, 350 S.E.2d 439, affirmed.

WHITE, J., delivered the opinion of the Court, in which REHNQUIST, C.J., and BRENNAN, MARSHALL, and STEVENS, JJ., joined. KENNEDY, J., filed a dissenting opinion, in which BLACKMUN, O'CONNOR, and SCALIA, JJ., joined, *post*, p. [486 U. S. 841](#) .

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JUSTICE WHITE delivered the opinion of the Court.

The issue here is whether and to what extent the Georgia statutes bearing on the garnishment of funds due to participants in ERISA employee welfare benefit plans are preempted by the federal statute which governs such plans.

I

Petitioners are the trustees of an employee benefit plan that provides vacation and holiday benefits to eligible employees in several southeastern States. The covered workers draw their vacation benefits from the plan annually. The plan is an "employee welfare benefit plan" as defined by the Employee Retirement Income Security Act of 1974 (ERISA), 29 U.S.C. 1002(1). [[Footnote 1](#)]

Respondent is a collection agency. It sought and obtained money judgments

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against 23 plan participants who owed money to clients of respondent. To collect these money judgments, respondent instituted an action in a Georgia trial court seeking to garnish the debtors' plan benefits. The trial court granted the garnishment request. App. to Pet. for Cert. A-21. The Georgia Court of Appeals reversed, holding that a Georgia statute, Ga.Code Ann. 18-4-22.1 (1982), [[Footnote 2](#)] barring the garnishment of "[f]unds or benefits of [an] . . . employee benefit plan or program subject to . . . [ERISA]," exempted plan benefits from garnishment. 178 Ga.App. 467, 470, 343 S.E.2d 492, 495 (1986).

The Georgia Supreme Court reversed. 256 Ga. 499, 350 S.E.2d 439 (1986). It agreed that 18-4-22.1, by its terms, barred this garnishment action, but concluded that the section was preempted by ERISA "since it purports to regulate garnishment of ERISA funds and benefits, a matter specifically provided for" in the federal scheme. *Id.* at 501, 350 S.E.2d at 442. Through an analysis of ERISA's preemption provisions, the Georgia Supreme Court concluded that Congress had not barred garnishment of employee welfare benefits, even though employee pension benefits were so protected. See 29 U.S.C. 1056(d) (1982 ed. and Supp. IV). Since 18-4-22.1 "prohibits that which the federal statute permits," the Georgia Supreme Court held, the state law was "in conflict with" the federal scheme, and therefore preempted by it. 256 Ga. at 501, 350 S.E.2d at 442. Consequently, the plan was subject to garnishment under the general state garnishment law, Ga.Code Ann. 18-4-20 *et seq.* (1982 and Supp.1987).

Because of conflicting decisions among the courts on the questions presented here, we granted certiorari. 483 U.S.

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1004 (1987). We now affirm the Georgia Supreme Court's judgment. [[Footnote 3](#)]

II

ERISA 514(a) preempts "any and all State laws insofar as they may now or hereafter relate to any employee benefit plan" covered by the statute. 29 U.S.C. 1144(a). We believe that, under our precedents, Ga.Code Ann. 18-4-22.1 is such a state law.

The Georgia statute at issue here expressly refers to -- indeed, solely applies to -- ERISA employee benefit plans. See [n](#) 2, *supra*.

"A law 'relates to' an employee benefit plan, in the normal sense of the phrase, if it has a connection with *or reference to* such a plan."

Shaw v. Delta Air Lines, Inc., [463 U. S. 85](#) , [463 U. S. 96](#) -97 (1983) (emphasis added). On several occasions since our decision in *Shaw*, we have reaffirmed this rule, concluding that state laws which make "reference to" ERISA plans are laws that "relate to" those plans within the meaning of 514(a). See, e.g., *Pilot Life Ins. Co. v. Dedeaux*, [481 U. S. 41](#) , [481 U. S. 47](#) -48 (1987); [471 U. S. 830](#) *Life Ins. Co. v. Massachusetts*, [471 U. S. 724](#) , [471 U. S. 739](#) (1985). In fact, we have virtually taken it for granted that state laws which are "specifically designed to affect employee benefit plans" are preempted under 514(a). Cf. *Pilot Life Ins. Co. v. Dedeaux*, *supra*, at [481 U. S. 47](#) -48; *Shaw v. Delta Air Lines, Inc.*, *supra*, at [463 U. S. 98](#) .

The possibility that 18-4-22.1 was enacted by the Georgia Legislature to help effectuate ERISA's underlying purposes -- the view of the Georgia Court of Appeals below, see 178 Ga.App. at 467, 343 S.E.2d at 493 -- is not enough to save the state law from preemption.

"The preemption provision [of 514(a)] . . . displace[s] all state laws that fall within its sphere, even including state laws that are consistent with ERISA's substantive requirements."

Metropolitan Life Ins. Co. v. Massachusetts, *supra*, at [471 U. S. 739](#) . The decision in *Shaw* particularly underscores this point. There, we found a New York antidiscrimination statute preempted under 514(a), even though Congress had not expressed any intent in ERISA to approve of the employment practices that the State had banned by its statute. *Shaw*, *supra*, at [463 U. S. 97](#) , n. 15, [463 U. S. 98](#) -99. Legislative "good intentions" do not save a state law within the broad preemptive scope of 514(a).

Consequently, adhering to our precedents in this area, we hold that Ga.Code Ann. 18-4-22.1, which singles out ERISA employee welfare benefit plans for different treatment under state garnishment procedures, [[Footnote 4](#)] is preempted under 514(a). The state statute's express reference to ERISA plans suffices to bring it within the federal law's preemptive reach.

III

A more complex question is posed by the argument of petitioners, rejected by the Georgia Supreme Court, that the entire Georgia garnishment procedure is preempted by ERISA. We reserved decision on the issue in *Franchise Tax Board of California v. Construction Laborers Vacation Trust for Southern California*, [463 U. S. 1](#) , [463 U. S. 7](#) , [463 U. S. 26](#) , n. 30 (1983); the question, which is one of federal law, [[Footnote 5](#)] is a close

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one. We believe, however, that petitioners' contention misapprehends ERISA's preemptive scope.

A

Unlike the Georgia antigarnishment provision discussed above, Georgia's general garnishment statute does not single out or specially mention ERISA plans of any kind. But as we have recognized, the preemptive force of 514(a) is not limited to such state laws. See, e.g., *Pilot Life Ins. Co. v. Dedeaux*, *supra*, at [481 U. S. 47](#) -48, and *Shaw v. Delta Air Lines, Inc.*, *supra*, at [463 U. S. 98](#) . Consequently, we must decide whether 514(a) preempts Georgia's general garnishment law because it "relates to" the ERISA welfare benefit plans that petitioners direct.

In arguing for preemption, petitioners assert that, when an employee welfare benefit plan is garnisheed under Georgia law by a creditor of a participant, plan trustees are served with a garnishment summons, become parties to a suit, and must respond and deposit the demanded funds due the beneficiary-debtor -- funds that otherwise they are required to hold and pay out to those beneficiaries. At the very least, petitioners contend, benefit plans subjected to garnishment will incur substantial administrative burdens and costs. Because garnishment will involve and affect the plan and its trustees in these ways, petitioners submit the Georgia garnishment law necessarily "relates to" such ERISA welfare benefit plans, and is therefore preempted by 514(a).

Unfortunately, ERISA itself offers no express answer as to whether welfare benefit plan trustees must comply with garnishment orders like those respondent is seeking to enforce. In our view, however, certain ERISA provisions, and several aspects of the statute's structure, indicate that Congress did not intend to forbid the use of state law mechanisms of executing judgments against ERISA welfare benefit plans, even when those mechanisms prevent plan partici

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pants from receiving their benefits. Consequently, we join the virtually unanimous view of federal and state courts which have faced this question, and hold that federal law does not bar a garnishment action like respondent's. [[Footnote 6](#)]

At the outset, we consider the several types of civil suits that can be brought against ERISA welfare benefit plans. First, ERISA's 502 provides that civil enforcement actions may be brought by particular persons against ERISA plans, to secure specified relief, including the recovery of plan benefits. Suits for benefits or to enforce a participant's rights under a plan may be brought in either federal or state court. 29 U.S.C. 1132(e). Section 502, which provides that a plan may "sue or be sued" as an entity in 502 actions, 29 U.S.C. 1132(d)(1), clearly contemplates the enforcement of money judgments against benefit plans, 29 U.S.C.

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1132(d)(2). [[Footnote 7](#)] See also H.R.Conf.Rep. No. 93-1280, p. 327 (1974).

ERISA plans may be sued in a second type of civil action, as well. These cases -- lawsuits against ERISA plans for run-of-the-mill state law claims such as unpaid rent, failure to pay creditors, or even torts committed by an ERISA plan -- are relatively commonplace. [[Footnote 8](#)] Petitioners and the United States (appearing here as *amicus curiae*) concede that these suits, although obviously affecting and involving ERISA plans and their trustees, are not preempted by ERISA 514(a). See Tr. of Oral Arg. 6, 11-12, 15.

ERISA does not provide an enforcement mechanism for collecting judgments won in either of these two types of actions. Thus, while 502(d), the "sue and be sued" provision, contemplates execution of judgments won against plans in civil actions, it does not provide mechanisms to do so. Moreover,

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Federal Rule of Civil Procedure 69(a), which would apply when either type of civil suit discussed above is brought against an ERISA plan in federal court, defers to state law to provide methods for collecting judgments. *Cf. also Huron Holding Corp. v. Lincoln Mine Operating Co.*, [312 U. S. 183](#) , [312 U. S. 188](#) -194 (1941). Consequently, state law methods for collecting money judgments must, as a general matter, remain undisturbed by ERISA; otherwise, there would be no way to enforce such a judgment won against an ERISA plan. If attachment of ERISA plan funds does not "relate to" an ERISA plan in any of these circumstances, we do not see how respondent's proposed garnishment order would do so. [[Footnote 9](#)]

It is thus clear enough that money judgments against ERISA welfare benefit plans, based on state or federal law, won in state or federal court, must be collectible in some way; garnishment is one permissible method. In fact, while petitioners' brief argued that *any* garnishment of an ERISA plan was preempted, see Brief for Petitioners 14, under questioning at oral argument, petitioners conceded that garnishment is among the state law enforcement mechanisms that may be used in certain types of cases involving ERISA welfare benefit plans. See Tr. of Oral Arg. 6-7. [[Footnote 10](#)]

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Nonetheless, petitioners and the United States insist that ERISA 514(a) bars enforcement of the particular garnishment orders at issue here. The Solicitor General rests this claim on his view that 514(a) prohibits ERISA welfare benefit plans from complying with state law enforcement orders (like garnishment) *only* where these orders affect "whether benefits will be paid to a plan participant." See

Tr. of Oral Arg. 15-16. Under this view of 514(a), state law enforcement mechanisms can be used to collect judgments from plan funds when they are won by general creditors of the plan, but not by creditors of plan participants.

The problem with this proposed interpretation of 514(a) is that it has no basis whatsoever in the language of the statute. Section 514(a) preempts State laws "insofar as they . . . relate to . . . employee benefit plan[s]"; no distinction is made between plan funds generally and those funds due a particular participant at a particular time. As the *amicus curiae*

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appointed by this Court put it,

"there is simply no logical way to construe the English language so that garnishment or attachment laws 'relate to' benefit plans when they are invoked by creditors of the beneficiaries, but not when they are invoked by beneficiaries or creditors of the [plan] itself."

Brief of *Amicus Curiae* in Support of Judgment Below 24. If 514(a) allows a creditor of a plan to employ state law procedures to attach plan funds (to collect a judgment it has won against the plan) -- if such an action does not "relate to" a benefit plan -- we do not see how 514(a) bars a participant's creditor from employing the same state law mechanisms.

Where Congress intended in ERISA to preclude a particular method of state law enforcement of judgments, or extend anti-alienation protection to a particular type of ERISA plan, it did so expressly in the statute. Specifically, ERISA 206(d)(1) bars (with certain enumerated exceptions) the alienation or assignment of benefits provided for by ERISA *pension* benefit plans. 29 U.S.C. 1056(d)(1). Congress did not enact any similar provision applicable to ERISA *welfare* benefit plans, such as the one at issue in this case. Section 206(d)(1) is doubly instructive.

First, 206(d)(1) expressly includes a distinction that the Solicitor General would have us read into 514(a). Section 206(d)(1) bars the assignment or alienation of

pension plan *benefits*, and thus prohibits the use of state enforcement mechanisms only insofar as they prevent those benefits from being paid to plan participants. As discussed above, 514(a), by contrast, deals with state laws as they relate to *plans*. The Solicitor General asks us to read 514(a) as protecting only benefits -- but not plans as a whole -- from state law attachment orders (recognizing the numerous problems that would arise if we were to conclude that welfare benefit plans could in no way be subjected to state law attachment). But by adopting 206(d)(1), Congress demonstrated that it could, where it wished to, stay the operation of state law as it affects only benefits and not plans. The Solicitor General asks

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us to imply a limitation on a preemption provision in one portion of the statute that Congress made express in another portion of ERISA (206(d)(1)). We see no basis for construing the statute in this manner, and therefore, in light of 206(d)(1), reject the Solicitor General's suggested interpretation of 514(a).

Section 206(d)(1) also supports our conclusion in another way. If we were to give ERISA 514(a) the meaning which petitioners and the Solicitor General attribute to it -- barring garnishment of all ERISA plan benefits -- we would render 206(d)(1) substantially redundant with 514(a), as they concede. See Tr. of Oral Arg. 8-9, 14. As our cases have noted in the past, we are hesitant to adopt an interpretation of a congressional enactment which renders superfluous another portion of that same law. [[Footnote 11](#)]

Ultimately, in examining 206(d)(1) and 514(a), there is no ignoring the fact that, when Congress was adopting ERISA, it had before it a provision to bar the alienation or garnishment of ERISA plan benefits, and chose to impose that limitation only with respect to ERISA pension benefit plans, and *not* ERISA welfare benefit plans. In a comprehensive regulatory scheme like ERISA, such omissions are significant ones. Cf. *Massachusetts Mutual Life Ins. Co. v. Russell*, [473 U. S. 134](#) , [473 U. S. 147](#) (1985). Once Congress was sufficiently aware of the prospect that ERISA plan benefits could be attached and/or garnisheed -- as

evidenced by its adoption of 206(d)(1) -- Congress' decision to remain silent concerning the attachment or garnishment of ERISA welfare plan benefits "acknowledged and accepted the practice, rather than prohibiting it." [Alessi v. Raybestos-Manhattan, Inc.](#), 451

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U.S. 504, [451 U. S. 516](#) (1981). We therefore conclude that Congress did not intend to preclude state law attachment of ERISA welfare plan benefits. [[Footnote 12](#)]

B

In support of his reading of 514(a), the Solicitor General relies heavily on a 1984 amendment to ERISA, the Retirement Equity Act of 1984, Pub.L. 98-397, 98 Stat. 1426. The 1984 Act included several changes in ERISA which Congress felt were necessary to guarantee that the Nation's private retirement-income system provided fair treatment for women. See S.Rep. No. 98-575, p. 1 (1984); H.R.Rep. No. 98-655, p. 1 (1984). Among the Act's provisions were amendments to ERISA which insured that the statute's antigarnishment and preemption provisions could not be used to block the enforcement of "qualified domestic relations orders" -- generally, court orders providing for child support and alimony payments by ERISA plan participants. See 29 U.S.C. 1056(d)(3) (1982 ed., Supp. IV); 29 U.S.C. 1144(b)(7) (1982 ed., Supp. IV). While the primary focus of this portion of the 1984 Act was removing 206(d)(1)'s antigarnishment protection from pension plan benefits when spouses sought enforcement of domestic support orders, Congress at the same time also amended 514(a)'s preemption provision. It apparently adopted the latter amendments in response to lower court rulings that had interpreted 514(a) to bar state law garnishment for the purpose of enforcing domestic relations orders. [[Footnote 13](#)]

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Petitioners and the Solicitor General argue that the 1984 amendment to 514(a) makes clear that the section, as originally enacted, generally preempts state attachment and garnishment procedures. Otherwise, they contend, there would have been no necessity to amend 514(a) to save domestic relation orders from preemption. There is, however, another plausible construction of Congress' action in 1984, namely, that Congress thought that some courts had erroneously construed 514(a) as preempting such orders. In this view, the 1984 amendment served the purpose of correcting the error, thus clarifying the original meaning of the section. [[Footnote 14](#)] Cf. *Edward J. DeBartolo Corp. v. Florida Gulf Coast Bldg. & Constr. Trades Council*, [485 U. S. 568](#) , [485 U. S. 585](#) (1988); [United Airlines, Inc. v.](#)

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McMann, [434 U. S. 192](#) , [434 U. S. 218](#) (1977) (MARSHALL, J., dissenting.) Moreover, even if the Solicitor General is correct, and Congress in 1984 thought that 514(a) as originally enacted preempted domestic relations orders directed at ERISA plans -- and other state law attachments and garnishments as well -- the opinion of this later Congress as to the meaning of a law enacted 10 years earlier does not control the issue. *United Airlines, Inc. v. McMann*, *supra*, at [434 U. S. 200](#) , n. 7. "[T]he views of a subsequent Congress form a hazardous basis for inferring the intent of an earlier one." *United States v. Price*, [361 U. S. 304](#) , [361 U. S. 313](#) (1960). [[Footnote 15](#)]

Much the same is to be said about the sentence in the relevant House Committee Report on which the Solicitor General relies:

"[T]he Committee reasserts that a state tax levy on employee welfare benefit plans is preempted by ERISA (see the holding of the 9th Circuit in *Franchise Tax Board* . . .)."

H.R.Rep. No. 98-655, pt. 1, *supra*, at 42. This statement does suggest that the House Committee in 1984 thought that 514(a) foreclosed state law attachment orders akin to those at issue here. But again, these views -- absent an amendment

to the original language of the section -- do not direct our resolution of this case. Instead, we must look at the language of ERISA and its structure, to determine the intent of the Congress that originally enacted the provision in question. "It is the intent of the Congress that enacted [the section] . . . that controls." *Teamsters v. United States*, [431 U. S. 324](#) , [431 U. S. 354](#) , n. 39 (1977). This inquiry supports our reading of 514(a), which is the reading given it by every other court that has considered the issue in this context (save the Ninth Circuit in a decision that was vacated by this Court).

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IV

Accordingly, we hold that ERISA does not forbid garnishment of an ERISA welfare benefit plan, even where the purpose is to collect judgments against plan participants. Moreover, since we agree with the Georgia Supreme Court that the Georgia antigarnishment provision found in Ga.Code Ann. 18-4-22.1 (1982) is preempted by ERISA, the judgment below is

Affirmed.

[[Footnote 1](#)]

As defined in 29 U.S.C. 1002(3), employee benefit plans are of two types: welfare benefit plans provide health, legal, vacation, or training benefits. 1002(1). Pension benefit plans provide retirement income. 1002(2). The plan involved here is a welfare benefit plan.

[[Footnote 2](#)]

The Georgia law at issue here provides, in relevant part:

"Funds or benefits of a pension, retirement, or employee benefit plan or program subject to the provisions of the federal Employee Retirement Income Security Act of 1974, as amended, shall not be subject to the process of garnishment . . .

unless such garnishment is based upon a judgment for alimony or for child support. . . ."

Ga.Code Ann. 18-4-22.1 (1982)

[[Footnote 3](#)]

Respondent elected not to appear in this Court, and we appointed an *amicus curiae* to defend the judgment below.

[[Footnote 4](#)]

This "different treatment" is illustrated not only by the express reference to ERISA plans in the language of 18-4-22.1, but also in the disparate treatment accorded to non-ERISA benefit plans under Georgia law. Under the State's garnishment statutes, non-ERISA pension and retirement plans are exempted from garnishment, but no exemption is provided for non-ERISA employee welfare benefit plans. *Compare* Ga.Code Ann. 18-4-22 (Supp 1987) *with* Ga.Code Ann. 18-4-22.1 (1982). Consequently, ERISA welfare benefit plans are protected from garnishment under Georgia law, but non-ERISA plans are not so protected.

[[Footnote 5](#)]

All of the litigants who argued before this Court agreed that federal law controls the resolution of this question. See Brief for Petitioners 11-13; Brief for United States as *Amicus Curiae* 16-17 (filed Aug. 27, 1987); Brief of *Amicus Curiae* in Support of Judgment Below 9.

[[Footnote 6](#)]

As far as we are aware, the only state or federal court decision in a case involving an employee welfare benefit plan to adopt the Solicitor General's view (that 514(a) preempts state law attachments of welfare benefit plans) was the Ninth Circuit's opinion in *Franchise Tax Board of California v. Construction Laborers' Vacation Trust for Southern California*, 679 F.2d 1307 (1982). That decision was subsequently vacated by the Court, [463 U. S. 1](#) (1983).

Since that action, decisions from the Ninth Circuit have abandoned the position taken by the panel majority in *Franchise Tax Board*, and have adopted the interpretation of 514(a) that Judge Tang expressed in dissent in that case, 679 F.2d at 1310-1311. See, e.g., *Misic v. Building Service Employees Health & Welfare Trust*, 789 F.2d 1374, 1376-1377 (CA9 1986); *Arizona Laborers, Teamsters, and Cement Masons, Local 395 Pension Trust Fund v. Nevarez*, 661 F.Supp. 365, 368-370 (Ariz.1987).

Other courts which have faced this question in this context have likewise concluded that ERISA does not preempt the application of state garnishment procedures to ERISA welfare benefit plans. See, e.g., *Local Union 212, Int'l Brotherhood of Electrical Workers Vacation Trust Fund v. Local 212, Int'l Brotherhood of Electrical Workers Credit Union*, 735 F.2d 1010, 1011 (CA6 1984) (per curiam), *aff'g* 549 F.Supp. 1299, 1300-1302 (SD Ohio 1982); *First Nat. Bank of Commerce v. Latiker*, 432 So.2d 293, 296 (La. App.1983); *Electrical Workers Credit Union v. IBEW-NECA Holiday Trust Fund*, 583 S.W.2d 154, 158-159 (Mo.1979).

[[Footnote 7](#)]

The "sue and be sued" clause found in ERISA 502 provides, in pertinent part:

"(a) . . ."

"A civil action may be brought -- "

"(1) by a participant or beneficiary -- "

" * * * *"

"(B) to recover benefits due to him under the terms of his plan. . . ."

" * * * *"

"(d) . . ."

"(1) An employee benefit plan may sue or be sued under this subchapter as an entity. . . ."

"(2) Any money judgment won under this subchapter against an employee benefit plan shall be enforceable only against the plan as an entity. . . ."

29 U.S.C. 1132.

[[Footnote 8](#)]

See, e.g., Morris v. Local 804, Delivery & Warehouse Employees Health & Welfare Fund, 116 Misc.2d 234, 455 N.Y. S.2d 517 (N.Y.City Civ.Ct.1982) (suit against ERISA plan for unpaid rent); *Luxemburg v. Hotel & Restaurant Employees & Bartenders Int'l Union Pension Fund*, 91 Misc.2d 930, 398 N.Y.S.2d 589 (New York Cty.Ct.1977) (suit against ERISA plan for unpaid attorneys' fees); *Abofreka v. Alston Tobacco Co.*, 288 S.C. 122, 341 S.E.2d 622 (1986) (tort suit against ERISA plan).

[[Footnote 9](#)]

Our conclusion here is further supported by the interpretation we have adopted of "sue and be sued" clauses in previous cases involving other statutes. When Congress provides by law that an entity may "sue and be sued," this includes "all civil process[es] incident to . . . Legal proceedings" including "[g]arnishment and attachment." *FHA v. Burr*, [309 U. S. 242](#) , [309 U. S. 245](#) -246 (1940). We have reaffirmed the view that a "sue and be sued" clause creates a presumption of susceptibility to garnishment and attachment in our more recent cases, as well. *See, e.g., Franchise Tax Board of California v. USPS*, [467 U. S. 512](#) , [467 U. S. 517](#) -525 (1984). Even petitioners concede that our usual rule is that a "sue and be sued" clause makes a subject entity susceptible to garnishment. *See* Tr. of Oral Arg. 7.

[[Footnote 10](#)]

Following this concession, petitioners later suggested (in a somewhat contradictory argument) that garnishment is not a state procedural device for

collecting judgments obtained under some other substantive body of law, but rather, "substantive law . . . [that] creates rights and liabilities where none existed before." See *id.* at 9.

We note, however, that under Georgia law (at least), garnishment is a "procedural" mechanism for the enforcement of judgments. Georgia's statute that provides for garnishment creates no substantive causes of action, no new bases for relief, or any grounds for recovery; the Georgia garnishment law does not create the rule of decision in any case affixing liability. Rather under Georgia law, post-judgment garnishment is nothing more than a method to collect judgments *otherwise* obtained by prevailing on a claim against the garnishee. See Ga.Code Ann. 18-4-60 (1982).

This analysis is reinforced by the fact that, under the Georgia statute, a garnishor can obtain a writ of garnishment for the purpose of executing the judgments of either the state or federal courts sitting in Georgia, *ibid.*, and by the Georgia Supreme Court's description of postgarnishment actions as "procedural," see, e.g., *Antico v. Antico*, 241 Ga. 294, 244 S.E.2d 820, 821 (1978); *Easterwood v. LeBlanc*, 240 Ga. 61, 239 S.E.2d 383, 383-384 (1977).

Such is the usual understanding of garnishment. For example, garnishment in the federal system is available under the Federal Rule that provides the "[p]rocess to enforce a judgment." See Fed.Rule Civ.Proc. 69(a) (emphasis added); see also, e.g., 7 J. Moore, J. Lucas, & K. Sinclair, *Moore's Federal Practice* 69.04[3], p. 69-24 (1986).

[[Footnote 11](#)]

See, e.g., *Massachusetts Mutual Life Ins. Co. v. Russell*, [473 U. S. 134](#) , [473 U. S. 142](#) (1985); *FEC v. National Conservative Political Action Committee*, [470 U. S. 480](#) , [470 U. S. 486](#) (1985); *Park 'N Fly, Inc. v. Dollar Park and Fly, Inc.*, [469 U. S. 189](#) , [469 U. S. 197](#) (1985); *United States v. Generix Drug Corp.*, [460 U. S. 453](#) , [460 U. S. 458](#) -459 (1983); *Dickerson v. New Banner Institute*, [460 U. S. 103](#) , [460 U. S. 118](#) (1983).

[[Footnote 12](#)]

It is not incongruous to find that Ga.Code Ann. 18-4-20 (Supp.1987), which provides for garnishment of ERISA welfare benefit plans, escapes preemption under ERISA, while striking down 18-4-22.1 -- an exception to the general state law provision -- as preempted. While we believe that state law garnishment procedures are not preempted by 514 (a), we also conclude that *any* state law which singles out ERISA plans, by express reference, for special treatment is preempted. See [486 U. S.](#) *supra*. It is this "singling out" that preempts the Georgia antigarnishment exception.

[[Footnote 13](#)]

"The courts are divided on the question of whether [ERISA's] anti-assignment clause applies to State domestic relations orders and also on the question of whether the preemption clause [514(a)] refers to State domestic relations laws and court orders."

H.R.Rep. No. 98-655, pt. 1, p. 30 (1984).

[[Footnote 14](#)]

For this reason, we think the dissent's suggestion that our reading of 514(a) renders that provision "redundant" with 514(b)(7) is unsound. *Post* at [486 U. S. 845](#) -846. Section 514(b)(7) was enacted a decade after 514(a) was adopted, in response to lower court interpretations of 514(a) which were not of Congress' liking. Consequently, even if (given the interpretation of 514(a) which we adopt today) 514(b)(7) overlaps with 514(a), our decision does not suffer from the evil of rendering duplicative two statutory provisions simultaneously adopted by Congress.

Unfortunately, the same cannot be said of the dissent's reading of 206(d)(1) and 514(a), which does render "redundant" two provisions of ERISA enacted at the same time. It is this sort of redundancy -- *i.e.*, the suggestion that Congress intentionally adopted, at a single time, two separate provisions having the same

meaning -- that calls a particular statutory interpretation into question. See [n](#) 11, *supra*. Even the dissent concedes that this problem plagues its reading of 514(a). *Post* at [486 U. S. 845](#) .

[[Footnote 15](#)]

See also e.g., *Jefferson County Pharmaceutical Assn. v. Abbott Labs.*, [460 U. S. 150](#) , [460 U. S. 165](#) , n. 27 (1983); *Consumer Product Safety Comm'n v. GTE Sylvania, Inc.*, [447 U. S. 102](#) , [447 U. S. 116](#) -118, and n. 13 (1980); *Oscar Mayer & Co. v. Evans*, [441 U. S. 750](#) , [441 U. S. 758](#) (1979).

The dissent claims that we are ignoring, in 514(b)(7), "a positive expression of legislative will" that forecloses our interpretation of 514(a). *Post* at [486 U. S. 843](#) . But whatever else one can say about the relevance of 514 (b)(7) to this case, one cannot say that that statutory provision amounts to a congressional enactment that controls here. Section 514(b)(7) has no direct bearing on this case, because it involves a type of garnishment order not at issue here. The most one can glean from 514(b)(7) is a sense of what Congress, in 1984, understood the scope of 514(a) to be -- a sense that does not command our obedience here. Moreover, for the reasons we discuss above, we do not even think that it is clear that the 98th Congress actually read 514(a) in the way that the dissent insists that it did.

JUSTICE KENNEDY, with whom JUSTICE BLACKMUN, JUSTICE O'CONNOR, and JUSTICE SCALIA join, dissenting.

When it enacted ERISA in 1974, Congress expressly preempted "any and all state laws insofar as they may now or hereafter relate to any employee benefit plan," and broadly defined "state law" to include "all laws, decisions, rules, regulations, or other State action having the effect of law." ERISA 514, 29 U.S.C. 1144. The Court holds that these provisions preempt a Georgia statute, Ga.Code Ann. 18-4-22.1 (1982), specifically exempting ERISA plans from the State's garnishment laws. With this much I agree. The Court also holds, however, that 514(a), ERISA's preemption provision, does not prohibit the garnishment of funds due to participants in ERISA welfare benefit plans. I believe that this latter conclusion is

inconsistent with both the statute and our precedents and, with all respect, I dissent.

I

We have said with repeated emphasis that the reach of 514(a) is not limited to state laws specifically designed to affect employee benefit plans. See *Pilot Life Ins. Co. v. Dedeaux*, [481 U. S. 41](#) , [481 U. S. 45](#) -46 (1987); *Shaw v. Delta Airlines, Inc.*, [463 U. S. 85](#) , [463 U. S. 98](#) (1983). Further, the reach of 514(a) is not limited to state laws that conflict with the substantive provisions of ERISA. See *Metropolitan Life Ins. Co. v. Massachusetts*, [471 U. S. 724](#) , [471 U. S. 739](#) (1985). On the contrary,

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the phrase "relate to" must be

""given its broad common sense meaning, such that a state law *relate[s] to* a benefit plan `in the normal sense of the phrase, if it has a connection with or reference to such a plan.'""

Pilot Life Insurance Co. v. Dedeaux, *supra*, at [481 U. S. 47](#) , quoting *Metropolitan Life*, *supra*, at [471 U. S. 739](#) . In my view, state garnishment laws necessarily relate to employee benefit plans to the extent they require such plans to act as garnishees, which is a substantial and onerous obligation.

Compliance with the state garnishment procedures subjects the plan to significant administrative burdens and costs. Petitioners are required to confirm the identity of each of the 23 plan participants who owe money to respondent, calculate the participant's maximum entitlement from the fund for the period between the service date and the reply date of the summons of garnishment, determine the amount that each participant owes to respondent, and make payments into state court of the lesser of the amount owed to respondent and the participant's entitlement. Petitioners must also make decisions concerning the validity and priority of garnishments and, if necessary, bear the costs of litigating these issues. Further,

as trustees of a multi-employer plan covering participants in several States, petitioners are potentially subject to multiple garnishment orders under varying or conflicting state laws. It is apparent that these effects of garnishment laws on employee benefit plans are not tenuous, remote, or peripheral, and that such laws are accordingly preempted. See *Shaw v. Delta Airlines, Inc.*, *supra*, at [463 U. S. 100](#) , n. 21.

This common-sense reading of the language of 514(a) is confirmed by Congress' decision to exempt certain "domestic relations orders" from the preemptive reach of ERISA. See 29 U.S.C. 1144(b)(7) (1982 ed., Supp. IV). As the majority acknowledges, this provision was intended to save from preemption certain garnishments designed to enforce domestic relations obligations. See *ante* at 486 U. S. 838 . The majority

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disregards, however, the strong structural implication created by the limited scope of this exception. Surely Congress knew that similar questions concerning the validity of garnishment procedures would arise in other contexts. Indeed, the majority recognizes as much. See *ante* at 486 U. S. 840 , citing H.R.Rep. No. 98-655, pt. 1, p. 42 (1984). Yet Congress decided to save from preemption only a limited class of garnishment orders, and then only upon specifically prescribed conditions. See 29 U.S.C. 1056(d)(3)(B)(i) (1982 ed., Supp. IV) (defining "qualified domestic relations order"). The majority's conclusion that ERISA does not bar garnishment of welfare plan benefits renders nugatory this carefully calibrated legislative choice.

It is no answer to say, as the majority does, that the " *views of a subsequent Congress form a hazardous basis for inferring the intent of an earlier one.*" *Ante* at 486 U. S. 840 , quoting *United States v. Price*, [361 U. S. 304](#) , [361 U. S. 313](#) (1960). For the views that the majority rejects are not the postenactment musings of a Member of Congress or congressional committee, but a positive expression of legislative will to which we are bound to give effect. In enacting 514(b)(7), Congress dispelled any possible doubt concerning the circumstances under which

welfare benefit plans are required to comply with state orders providing for the garnishment of plan benefits. The Court, which not infrequently calls upon Congress to manifest its intent more clearly, today disregards a clear answer given by Congress in a valid enactment.

II

In reaching its conclusion that Georgia's garnishment statutes are not preempted in the circumstances of this case, the Court relies on two principal arguments. First, the Court notes that Congress contemplated that ERISA benefit plans would be subject to suit under certain circumstances. The majority notes, correctly, that civil enforcement actions are maintainable pursuant to 29 U.S.C. 1132. The majority

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points further to certain suits that may be brought "against ERISA plans for run-of-the-mill state law claims. . . ." *Ante* at [486 U. S. 833](#) . The Court reasons that, as ERISA does not provide an enforcement mechanism for collecting judgments won in such suits, Congress must have intended that state law methods of collection remain undisturbed.

This argument has no relevance to the issue before us. The question we face is not whether garnishment may be used to enforce a valid judgment obtained against an ERISA plan. When garnishment is so used, its process issues against some third party who owes the plan a debt or who has property in his possession in which the plan has an interest. The significant burdens of complying with the garnishment order fall on the plan's debtor, not on the plan. The issue we face in this case is quite different: it is whether an ERISA benefit plan may be forced to act as a *garnishee* by creditors of the plan's participants and beneficiaries. Because the Court fails to analyze the different contexts in which state garnishment laws may affect ERISA plans, its conclusion that such laws are never preempted is far too broad. And while the Court's conclusion may be valid in garnishment proceedings where an ERISA plan is the debtor, it is plainly

unwarranted in situations where, as here, the plan is a garnishee. For it is in the latter situation that plans face the repetitious and costly burden of monitoring controversies involving hundreds of beneficiaries and participants in various States.

Further, it assumes the point in issue to say that the Court's conclusion is required by cases holding that a "sue-and-be-sued" clause creates a presumption of susceptibility to garnishment and other state law procedures for enforcing judgments. See *ante* at [486 U. S. 834](#) , n. 9, citing *Franchise Tax Board of California v. USPS*, [467 U. S. 512](#) (1984), and *FHA v. Burr*, [309 U. S. 242](#) (1940). The "sue-and-be-sued" clause in each of those cases was a waiver of the sovereign immunity that otherwise would have protected certain federal agencies from legal process, including writs of garnishment. In that

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context, it was perfectly sensible to

"presum[e] that, when Congress launched a governmental agency into the commercial world and endowed it with authority to 'sue or be sued,' that agency is no less amenable to judicial process than a private enterprise under like circumstances would be."

FHA v. Burr, *supra*, at [309 U. S. 245](#) . In the ERISA context, by contrast, 514(a) substantively limits the States' ability to treat employee benefit plans as they may treat any commercial enterprise. Our cases finding several state law causes of action preempted establish at least this much. See, e.g., *Pilot Life*, 481 U.S. at [481 U. S. 47](#) -48 (holding that certain contract and tort laws, though otherwise generally applicable, may not be invoked against an employee benefit plan); *Shaw* , 463 U.S. at [463 U. S. 103](#) -106 (finding certain fair employment laws preempted).

The second argument on which the Court relies is that the conclusion that 514(a) preempts the state statutes at issue in this case would render redundant the bar against alienation or assignment of pension benefits set forth in ERISA 206(d)(1),

29 U.S.C. 1056(d)(1). See *ante* at [486 U. S. 837](#) . This provision prohibits any assignment, whether voluntary or involuntary, of pension plan assets. Under the view the Court rejects, 514(a) would prohibit involuntary assignments of pension and welfare plan assets because such assignments necessarily would be effected by application of state laws, like the Georgia laws at issue in this case, that are preempted. I agree with the Court that ordinarily the partial redundancy of a statutory command, such as would result from the interpretation of 514(a) that the Court rejects, is not lightly to be inferred. Nevertheless, I believe there are two reasons why this consideration is not weighty in the present context.

First, the alternative construction adopted by the Court results in the total redundancy of 514(b)(7), 29 U.S.C. 1144(b)(7) (1982 ed., Supp. IV). It is preferable, in my view, to tolerate the partial overlap rejected by the Court than to construe 514(a) so as to render another section of the

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statute surplus in its entirety. Second, the deliberate, expansive reach of 514(a) necessarily encompasses many state laws that would be preempted even in the absence of its broad mandate, solely on the basis of their conflict with ERISA's substantive requirements. Some degree of overlap is a necessary concomitant of the approach to preemption chosen by Congress. The partial redundancy which the Court strives to avoid is essentially analogous to a host of like overlaps that Congress must have foreseen. To suggest that this type of overlap is sufficient to call into question the applicability of 514(a) is to defeat the very purpose for which it was enacted. I cannot agree with the Court's conclusion that petitioners must comply with the garnishment orders at issue in this case.