

# L&E ALERT

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## Collective Bargaining Agreement Can Prevent Employers from Modifying Retiree Healthcare Coverage

*Alday v. Raytheon Co.*, \_\_ F.3d \_\_, 2012 WL 1815674 (9th Cir. May 21, 2012)

The Ninth Circuit Court of Appeals recently held that an employer was contractually obligated under the terms of collective bargaining agreements (CBAs) to continue providing premium-free, employer-funded healthcare coverage to eligible employees after retirement until the age of 65. The employer began charging past retirees monthly premiums for healthcare coverage under the terms of a new CBA, despite the employer's agreement under prior CBAs for premium-free retiree healthcare coverage. The affected retirees sued under the Labor Management Relations Act (LMRA) and the Employee Retirement Income Security Act of 1974 (ERISA). The district court found in favor of the retirees, ordering the employer to reinstate the premium-free coverage and to compensate the retirees for premiums paid.

The Ninth Circuit affirmed, finding the employer's express agreement to provide the premium-free coverage under the past CBAs obligated the employer to continue to pay the premiums. The court looked at the language of the applicable CBAs, noting a retiree's rights are generally governed by the CBA under which he or she retired and any incorporated ERISA retirement plan provisions. Despite the existence of "reservation-of-rights" provisions in the ERISA retirement plans giving authority to the employer to amend the plan provisions (including the right to terminate the payments), these reservation-of-rights provisions were not expressly incorporated into the CBAs. Without this express incorporation, the terms of the CBA prevailed and the employer's contractual agreement to provide premium-free healthcare coverage for eligible employees could not be unilaterally terminated by the employer.

*Alday* is a reminder that although employers are generally free under ERISA to modify or terminate welfare benefits such as post-retirement medical benefits, an employer can contractually limit or relinquish this right in a CBA. Employers should keep this in mind when negotiating retirement provisions under a CBA, and should expressly incorporate ERISA plan provisions regarding the employer's ability to alter terms about retirees' medical coverage (including reservation-of-rights provisions). Employers with questions about the *Alday* decision or its impact should contact one of our labor and employment attorneys.

**[The Ninth Circuit's full opinion is available online.](#)**

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### **For Questions, Contact:**

Mark Amberg, Chair  
Sharon Rudnick  
Andrea Nagles