

# U.S. judge rules against Lutheran retirees' claims

by [G. Jeffrey MacDonald](#) in the [February 22, 2011](#) issue

In a blow to retirees of a major Lutheran publishing house, a federal judge has ruled that the now-dissolved pension plan of Augsburg Fortress was exempt from federal regulations that would have required it to meet minimum funding levels.

But the case remains open as pensioners—who say they're owed as much as \$40 million—received a green light to keep pressing breach-of-contract claims under state law.

The January 27 ruling by Minnesota's U.S. District Judge Michael Davis marked a partial victory for the Evangelical Lutheran Church in America and its publishing arm, Augsburg Fortress.

Davis ruled that Augsburg Fortress's pension was a "church plan," making it exempt from regulations that cover other pension programs under the 1974 Employee Retirement Income Security Act, or ERISA.

"We're very pleased with the result," said Beth Lewis, president and CEO of Augsburg Fortress. "It means that we continue to publish fine resources for the church and focus on our business, which is also a ministry."

The ELCA also welcomed the ruling, which dismissed seven of nine claims against the denomination.

"The ruling is . . . consistent with 30 years of federal agency determinations that church-affiliated employers, like a publishing agency that is affiliated with a denomination, can maintain a church

plan," said Ruth S. Marcott, an attorney representing the ELCA, in a statement.

Augsburg Fortress terminated its pension plan on December 31, 2009. Three months later, the publisher distributed the remaining \$8.2 million in lump sum payments, which stakeholders said were worth a fraction of what they'd expected to receive over their lifetimes.

After years of underfunding and a financial crisis that battered investments, Augsburg had no good choices, Lewis argued. Terminating the program marked a more "equitable" solution, she said, than letting funds run out within five years and leaving most stakeholders with nothing.

The plaintiffs' attorney, Richard Lockridge, argued that if the Augsburg plan is in fact a church plan, then its affiliated church—the ELCA—is obligated to make amends for Augsburg's broken pension promises. He plans to press for an expedited trial on behalf of an estimated 500 pensioners. —RNS