

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

LAURENCE KAPLAN, on behalf of himself, :
individually, and on behalf of others similarly :
situated, :

Plaintiff, :

v. :

SAINT PETER'S HEALTHCARE SYSTEM, :
RONALD C. RAK, an individual, SUSAN :
BALLESTERO, an individual, GARRICK :
STOLDT, an individual, and JOHN and JANE :
DOES, each an individual, 1-20, :

Defendants. :

Civil Action No. 13-2941 (MAS)(TJB)

ORDER

This matter comes before the Court upon the motions of Defendants Saint Peter's Healthcare System, Ronald C. Rak, Susan Ballestero, and Garrick Stoldt (collectively, "SPHS" or "Defendants") pursuant to Federal Rules of Civil Procedure ("Rule") 12(b)(1) and 12(b)(6). (Defs.' Br., ECF No. 42-1.) Plaintiff Laurence Kaplan ("Plaintiff" or "Mr. Kaplan") opposed Defendants' motions (Pl.'s Opp'n, ECF No. 48) and Defendants replied (Defs.' Reply, ECF No. 54). Plaintiff also filed a Motion to Strike certain certifications and exhibits attached to Defendants' Motions to Dismiss (ECF No. 47) and Defendants opposed (ECF No. 53). The Court has carefully considered the Parties' submissions and heard oral argument on March 27, 2014. For the reasons stated in the Memorandum Opinion filed today, and other good cause shown,

IT IS on this 31st day of March, 2014, **ORDERED** that:

- 1) As a matter of law, the Saint Peter's Healthcare System Retirement Plan is not a church plan, as defined in the Employee Retirement Income Security Act, 29 U.S.C. § 1002(33).
- 2) Defendants' Motions to Dismiss pursuant to Rules 12(b)(1) and 12(b)(6) are DENIED.

3) Plaintiff's Motion to Strike certain certifications and exhibits is DENIED as moot.

s/ Michael A. Shipp

MICHAEL A. SHIPP
UNITED STATES DISTRICT JUDGE