

# Changing An Employee's Retirement Date May Violate ERISA

Whether they involve actual benefits or just the process itself, any promises made that impact an employee's expectations must be kept. If a retirement promise is broken and an employee is shortchanged, a court could get involved and make the employer stick to its original agreement.

## A Date Is Changed

An employee made a decision to retire after 30 years of service, making him eligible for pension benefits. He decided his retirement date would be May 5. But since he had 25 accrued vacation days and five excused working days, he and his manager agreed that he would cease working on March 23, but officially retire on May 5, and his pension would begin on May 6. The employee completed several separation documents that both he and management signed to reflect that agreement.

The employee later took a job with a competitor, certain that his employment with the employer was truly over. When the employer found out about the new job, it informed him that he violated company policy by accepting employment while still on the company's payroll. Then it moved his retirement date to March 24. Result: The employee became ineligible for full retirement benefits since his years of service amounted to 29 years, 10 months, and 20 days. The employer's claims review committee affirmed this, and denied the employee's claim for full pension.

## A Promise Is Broken

The employee brought suit against the company in federal court under the Employee Retirement Income Security Act (ERISA), claiming the company reneged on its promise to record May 5 as the retirement date, and then denied him full pension benefits.

**Key court question:** whether it was lawful for the company to change the employee's retirement date from May 5 to March 24.

According to the court, all records supported the conclusion that the employee's official retirement date was May 5. The company had approved that date, and the approval was a promise. Through the separation

documents, the employee reasonably believed the employer terminated his employment and he was free to seek other employment. The court found that the company knew and agreed that the employee was permanently departing from the company.

The court sent the employee's claim back to the plan administrator to determine benefits under the original retirement promise. (*Eastes v. Verizon Communications*, S.D.WV, No. 2:01-0763, 2005)

**Beware of promises:** Some companies have been obligated under ERISA to reinstate certain benefits because of inadvertent promises made; or because of inaccurate or inconsistent information given to its employees.