

8th Circuit Rules that the Northwest Airlines Post-Bankruptcy Retirement Plan does not Violate ERISA or the ADEA

April 19, 2012

In affirming the district court's ruling, the Eighth Circuit Federal Court of Appeals recently held that Northwest Airline's post-bankruptcy retirement benefit plan (referred to as the "MP3") did not violate ERISA or the Age Discrimination in Employment Act (ADEA). Following Northwest Airline's bankruptcy in 2005, the company froze its traditional pension plan and agreed to make contributions on behalf of pilots to a retirement savings account (pro rata to pay). The Air Line Pilots Association (the "Pilots Association") determined that the frozen pension plan and pro rata to pay contributions led to significant disparity in retirement income between more senior pilots and pilots with less years of service under the frozen pension plan. To address this concern, the Pilots Association and the company created the MP3, which allocated contributions so that all pilots, in combination with the frozen pension plan, would receive "an aggregate replacement income equal to approximately 50 percent of their final average earnings as an active pilot (or frozen pension plan benefit if higher)." Using what is called the "stovepipe model," the MP3 projects a pilot's final average earnings at retirement. In December 2007, the company filed a declaratory judgment action, requesting the district court to find that the MP3 complied with ERISA. Older pilots, all of whom either received no contributions or smaller contributions under the MP3 than under the pro rata to pay plan counterclaimed, arguing that the MP3 violated the ADEA, the parallel provisions of ERISA, and state laws prohibiting age discrimination by improperly reducing or eliminating their retirement benefits because of age. The district court granted summary judgment in favor of the company and the court affirmed. The court noted that to state a disparate-treatment claim under the ADEA and ERISA, there must be sufficient evidence to show that the differential treatment was actually motivated by age and not pension status. The court found that although the MP3 contributions of all pilots were based on projected final average earnings which could not be calculated without the use of age, that did not mean that the older pilots' contributions were reduced because of their age. The court noted that there were several factors in the MP3 that could reduce an older pilot's projected final average earnings. Because the factors were analytically distinct from age, the reductions in contributions were not "because of age." Accordingly, the court held that the MP3 did not reduce older pilots' benefits because of age in violation of ERISA and the ADEA. *Northwest Airlines, Inc. v. Phillips*, No. 11-1730 (8th Cir. April 9, 2012).