

Decision to Exclude Stock Payments in Benefit Calculations Upheld by Seventh Circuit

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In a recent Seventh Circuit decision, the appellate panel upheld a company's decision to exclude stock-linked bonus payments when calculating benefits under the company's Supplemental Executive Retirement Plan ("SERP"). Plaintiff, John W. Comrie, chief legal officer of IPSCO Enterprises, Inc., sought to have stock-linked bonuses included in the calculation of his benefits under the Plan. Such benefits are based on the number of years of service the executive has with the company, times two percent of his final five years average compensation. The administrative committee concluded that stock-linked compensation is bonus compensation under the Plan and thus not included in average compensation in the calculation of benefits under the Plan. The Seventh Circuit appellate panel reversed the summary judgment granted by the district court in favor of the defendant, and held that the committee did not act arbitrarily or capriciously in concluding that stock-linked compensation is properly excluded from the calculation of the payment under the Plan. The Seventh Circuit panel applied deferential review to the decision of the Plan's committee in reaching its holding. *Comrie v. IPSCO Inc.*, No. 10-2393 (7th Cir. Feb. 18, 2011).