

Deferred Compensation Arrangements in Employment Agreements Not an ERISA Plan

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The Fifth Circuit Court of Appeals overturned a district court decision finding that deferred compensation arrangements in employment agreements constituted an ERISA Plan. Although there was a cap on certain payments, the court held that such provision did not involve enough employer discretion to constitute an administrative scheme, thus ERISA did not apply. The court also noted that the cap would likely never be triggered, no administrative scheme was needed to monitor the company's former employees to ensure compliance with non-compete provisions, and even though the triggering events, including termination without cause and retirement, would occur more than once and at a different time for each employee, they could easily be ascertained without employer discretion. *Cantrell v. Briggs & Veselka Co.*, No. 12-20294 (5th Cir. Aug. 27, 2013).