

## Early Retirement Supplement Found to be a "Protected Benefit" Due To Plan Drafting

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An employer's defined benefit pension plan defined "accrued benefit" to include early retirement supplemental benefits. However, the plan was amended to eliminate the early retirement supplemental benefit. A participant erroneously received payment of the early retirement supplemental benefit after the amendment and was asked by the employer to repay it to the plan. The employee claimed that elimination of the supplement violated ERISA's "anti-cutback" rule. The U.S. Court of Appeals for the Fourth Circuit noted that, generally, stand-alone ancillary benefits are not independently protected by ERISA; however, because the plain language of the plan document included the early retirement supplement in its definition of accrued benefits, any change to the amount or existence of the supplement constituted a reduction in the accrued benefit. Accordingly, the court reversed the district court's summary judgment and remanded for further proceedings consistent with the holding that the supplement was a protected accrued benefit for purposes of ERISA's anti-cutback rule. *Savani v. Washington Safety Management Solutions, LLC*, No. 11-1206 (4th Cir. Mar. 20, 2012), unpublished.