

Plan Terms Control Authority to Interpret and Administer Top-Hat Plans

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The company's long-term incentive plan and equity compensation plan permitted pro-rata payment of shares prior to full vesting if termination of employment occurred due to retirement or involuntary termination without cause. "Retirement" and "involuntary termination" were not defined in the plans. The plans gave an Executive Compensation Committee (ECC) authority to interpret and administer the plans. Two former executives terminated employment when company assets were sold and they declined to accept continued employment at transfer locations. The company's Senior Vice President of Administrative Services, Authorized Representative and Fiduciary to the Benefit Plan Committee, who was not a member of the ECC, determined that the former executives did not terminate employment due to retirement or involuntarily without cause. The Court of Appeals found that the Senior Vice Presidents' decision was not entitled to any deference because the plans gave discretionary authority only to the ECC and the ECC did not decide the claims nor delegate authority to the Senior Vice President. The Court of Appeals found that the former executives had "retired", even though they were under age 50, and were entitled to pro-rata payments under the plans. *Schaffart v. ONEOK, Inc.*, Nos. 10-3861/11-1061 and *Peters v. ONEOK, Inc.*, Nos. 10-3862/11-1062 (8th Cir. July 5, 2012) can be found [here](#).