

## Second Circuit Determines Xerox Plan Offset is Unreasonable, Overturns District Court

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In the continuing saga of the Xerox floor-offset retirement plan, the U.S. Court of Appeals for the Second Circuit overturned the district court and held, under the abuse of discretion standard, that although the plan gave the plan administrator discretion to interpret the plan, the administrator abused its discretion by using an unreasonable method to calculate plan benefit offsets. The appellate court held that the method used to offset benefits was both contrary to the plain terms of the plan and was not clearly explained in the plan's summary plan description, resulting in the administrator's interpretation violating the notice requirements of the Employee Retirement Income Security Act of 1974, as amended. *Frommert v. Conkright*, No. 12-67-cv (2d Cir. Dec. 23, 2013).