

# EQUITABLE ESTOPPEL; IF YOU TELL SOMEONE SOMETHING REGARDING A PLAN, IN THE RIGHT SITUATIONS IT BECOMES TRUE

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**Practices & Industries**

Employee Benefits

Andres Deschamps worked for 10 years at a Bridgestone Tire plant in Canada. Deschamps was then offered a position at a Bridgestone facility in the United States. Deschamps was concerned about losing credit for his 10 years of service if he transferred to the United States. As part of his negotiation of benefits during the hiring process, Deschamps spoke with the plant manager, a human resources manager, a director of manufacturing, and the plant controller. Deschamps believed these individuals when they told him that he would be given pension credit for the U.S. pension plan for his service back to 1983 when he started working in Canada. Deschamps did not receive anything in writing until 1994 when he received a benefits statement which reflected the ten years of service in Canada. During his years of employment in the U.S., he received benefit summaries and materials which were consistent with the crediting of these 10 years of service.

In 2009 or 2010, Bridgestone began to investigate service crediting for various individuals who had transferred employment. In 2010, Deschamps discovered that his service date had been changed from 1983 to 1993 causing him to lose his 10 years of service in Canada. The governing Bridgestone U.S. retirement plan describes five classifications of employees who are eligible employees. As written the individual must have been in one of the five classifications to be eligible. The first classification was United States salaried employees. Bridgestone appears to have interpreted this provision as requiring that anyone who was in any of the five covered groups must have be a United States employee to be a participant in the plan. This was the basis for Bridgestone's denial of the 10 years of service credit.

The District Court for the Middle District of Tennessee and, on appeal, the U.S. Sixth Circuit Court of Appeals found that the plan language only required that a person in any of the five categories would receive service credit. Both Courts found that Deschamps fit into one of the other five categories and therefore, the limitation of being a United States salaried employee did not preclude Deschamps from receiving credit under the Plan. The Courts then examined Deschamps's claim of breach of fiduciary duty and equitable estoppel. Again the Courts found that the individuals speaking on behalf of Bridgestone in the negotiations were acting as fiduciaries with respect to the Plan when they informed Deschamps that he would

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receive the ten years of service credit. Additionally, the Court was sympathetic to Deschamps's claim of equitable estoppel in that Bridgestone provided materials from 1994 through 2009 indicating that he was to receive credit for the ten years of service in Canada. The Court found that the lengthy period of time in which Bridgestone continued to make these statements overcame the disclaimers in the documents of that they only were an estimate of the pension benefit and the pension plan documents were controlling.

Employers should remember that statements made to an individual regarding their retirement benefits may be made in a fiduciary capacity and that if the individual relies on those statements, the plan may be obligated to provide benefits consistent with those statements. *Deschamps v. Bridgestone Ams. Inc.* (6th Cir. 2016)