
Edward Tedesco, et al.
v.
Bank of America Corporation, et al.



Cash Balance Lawsuit
November 14, 2007

What is the Lawsuit About?

On November 13, 2007, our office served a complaint on Bank of America Corporation. *Tedesco et al v. BOA et al.*¹ is about the FleetBoston Pension Plan's cash balance provisions. It asserts that in adopting and administering the BankBoston Cash Balance Retirement Plan and its successor plan, FleetBoston Pension Plan, Bank of America Corporation violated ERISA in one or more of the following ways:

(a) Hidden benefit cuts. ERISA requires honest benefit explanations and full disclosure of benefit cuts. BankBoston converted to a cash balance pension doing away with valuable early retirement benefits, abandoning its final average pay formula,

¹ The complaint was filed on 11/7/07 in the United States District Court for the District of Connecticut and has been assigned docket number 3:07cv1640(JCH). The Complaint can be viewed online at www.mwlawgroup.com.

and ultimately leaving employees with the greater of two benefits when they used to get both. Tedesco and Wilson claim the bank and its successors violated ERISA by never honestly explaining the new plan and how it cuts benefits.

(b) Discrimination against older employees. Under the cash balance formula, employees gradually earn age-65 annuities, but, by calculating the annuities using quarterly dollar contributions to hypothetical interest-earning accounts, the formula buys bigger annuities for younger employees and buys smaller annuities for employees the older they get. Tedesco and Wilson claim this violates ERISA's rule against age discrimination.

(c) Unfair postponement of benefit earnings. ERISA says plans may not unduly postpone benefit earnings. Benefits earned in any year may not be more than 133 1/3% greater than benefits earned in the prior year. Tedesco and Wilson claim the cash balance formula violates this rule because many employees earn no new benefits under the formula in their early years, leaving their first year of new benefits more than 133 1/3% greater than the benefits earned in the prior year.

Are you part of the Proposed Class²?

Members of the proposed class are any and all persons who are former or current participants assigned hypothetical cash balance accounts under the FleetBoston Financial Pension Plan who are either:

- (1) former participants in the BankBoston Cash Balance Retirement Plan, or
- (2) were Fleet Financial Group or FleetBoston Financial Corp. employees after January 1, 1997 but not before.

If you are covered under the proposed class you do not have to do anything to be involved. There is no retainer to be paid or list that you need to be put on to participate. Just be sure to regularly check the website for updates and inform others you believe to be part of the class that do not already know about the lawsuit to do the same.

What this Could Mean for Proposed Class Members:

The complaint asks the Court to declare the unlawful cash balance provisions of the plan ineffective and to pay the additional benefits due to the class members along with interest, attorneys' fees and costs.

² Class action status has not been granted by the Court in this case. Plaintiffs must first move for class action certification and the Court must approve it before the proposed class is covered. Until that time, the lawsuit only covers plaintiffs Tedesco and Wilson.

Case Schedule:

The Complaint was filed on November 7, 2007 and served on the defendants on November 13, 2007. The defendants have sixty days to file an answer to the complaint or until January 12, 2008. We will post another update online after that time.