

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

LARRY L. KOGER,

Plaintiff,

v.

CIVIL ACTION NO. 1:08-0909

NORFOLK SOUTHERN RAILWAY
COMPANY,

Defendant.


MEMORANDUM OPINION AND ORDER

Pending before the court is defendant's motion in limine to exclude any testimony by plaintiff's expert, G. Richard Thompson, that relies on employer contributions to plaintiff's retirement benefits. (Doc. # 83). According to defendant, Mr. Thompson's calculation regarding the value of lost fringe benefits runs afoul of the Supreme Court's decision in Norfolk & W. Ry. Co. v. Liepelt, 444 U.S. 490 (1980). At the pretrial conference in this matter, held on October 19, 2009, the court informed the parties that it would allow plaintiff to offer an alternative calculation that was consistent with Liepelt. Plaintiff did so and the amended calculation was presented at trial. Accordingly, defendant's motion is DENIED.

The Clerk is directed to send copies of this Memorandum Opinion and Order to all counsel of record.

IT IS SO ORDERED this 24th day of November, 2009.

ENTER:



David A. Faber
Senior United States District Judge