

UNITED STATES DISTRICT COURT

DISTRICT OF MAINE

ARTEMIS COFFIN, GEORGE BAKER,
DARRELL FLANDERS, JAMES MINGO,
TERRENCE LYON, HAROLD SMITH,
ROBERT DEWITT, DUANE L. HANSCOM,
JOSEPH GAGLIARDI JR., TRINA VAZNIS,
RAYMOND MACDONALD, ROBERT P.
HEALEY, BARRY BRYANT, LEE
WHEATON and GALEN M. LANDER,

Individually and as Representatives of a class
of all persons similarly situated,

Plaintiffs

v.

Civil No. 03-227-B-C

BOWATER INCORPORATED, GROUP
PROTECTION FOR EMPLOYEES OF
BOWATER INCORPORATED – GREAT
NORTHERN PAPER, INC. DIVISION,
BOWATER INCORPORATED POINT OF
SERVICE MEDICAL BENEFITS PLAN,
BOWATER INCORPORATED POINT OF
SERVICE MEDICAL PLAN, BOWATER
INCORPORATED BENEFIT PLAN and
BOWATER LIFE INSURANCE PLAN,

Defendants

Gene Carter, Senior District Judge

ORDER AMENDING CLASS DEFINITION

On June 21, 2005, the Court certified Counts I, II, and III of Plaintiffs' Third Amended Complaint for class treatment. *See* Memorandum of Decision and Order

Granting in Part Plaintiffs' Motion for Class Certification (Docket Item No. 115). In its Order, the Court required Plaintiffs to submit to the Court a proposed method of notice to class members. The Court further suggested that the parties "stipulat[e] that any claimant who has, as of some current date, filed a claim be deemed to have had that claim denied for purposes of class membership herein." *Id.* at 12 n.8.

Plaintiffs have now submitted their Notice to Court in Response to Class Action Order of June 21, 2005 (Docket Item No. 130). Plaintiffs represent that the parties have agreed that any individual who filed a claim by the June 21, 2005, date of the Class Action Order is deemed to have exhausted his/her internal remedies, unless he/she received a claim denial letter from Bowater prior to December 23, 2004, and he/she failed to appeal the denial within 180 days. *See* Notice to Court in Response to Class Action Order of June 21, 2005, at 2. Such a stipulation requires modification of the class definition.¹ Defendants have indicated that they do not object to such modification. *See* Bowater's Response to Plaintiffs' Proposed Class Definitions and Proposed Notice to Class Members (Docket Item No. 133).

Pursuant to the stipulation reached by counsel addressing exhaustion of administrative remedies, it is **ORDERED** that the Class Definition be, and it is hereby, **AMENDED** as follows:

General Class. All persons who:

- (1) were receiving company-paid health coverage from Great Northern Paper, Inc. ("GNP") prior to its 2003 bankruptcy, because (i) they had retired on pension when GNP was under the ownership of Bowater

¹ Plaintiffs have also advised the Court that the existing class definition may be read to require retirees asserting a claim under the Labor Management Relations Act ("LMRA") to proceed through an administrative remedies exhaustion procedure. As Plaintiffs correctly note, the Court has not applied the exhaustion of administrative remedies doctrine to the LMRA claims and did not intend to do so in its definition of the class. Accordingly, the class definition will be revised to address this issue.

between January 1, 1992, and August 17, 1999, or in a short window period after the sale of GNP, extending to October 1, 1999; (ii) they were eligible spouses or dependents of such retirees; or (iii) their former spouse had died as an employee at GNP when it was under Bowater ownership -- and any individuals who became eligible spouses or dependents of such retirees after the bankruptcy, and

- (2) submitted a claim for benefits to Bowater on or before June 21, 2005, unless that person received at least one denial letter from Bowater prior to December 23, 2004, and did not file at least one appeal with Bowater within 180 days of receiving such a pre-December 23, 2004, denial letter.

Subclass A: Those individuals who meet the criteria of paragraph (1) of the general class by reason of a retirement or a death of a union-represented employee that occurred before August 17, 1999.

Subclass B: Those individuals who meet the criteria of paragraph (1) of the general class by reason of a retirement or a death of a union-represented employee that occurred after August 17, 1999.

/s/ Gene Carter

GENE CARTER

United States Senior District Judge

Dated at Portland, Maine this 15th day of July, 2005.

Plaintiff

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