

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS

PAT BEESLEY et al.,

Plaintiffs,

v.

INTERNATIONAL PAPER COMPANY et
al.,

Defendants.

No: 3:06-cv-703-DRH-SCW

**JOINT MOTION FOR PRELIMINARY APPROVAL OF CLASS
SETTLEMENT**

The Parties respectfully file this Motion under Rule 23(e) of the Federal Rules of Civil Procedure for preliminary approval of a Class Settlement.

1. This litigation, which was commenced on September 11, 2006, alleges, among other things, that the fiduciaries responsible for overseeing the Plans breached their duties under Employee Retirement Income Security Act of 1974 (ERISA) by causing the Plans to pay excessive fees, failing to capture revenue for the benefit of the Plans, and imprudently causing the Plans to invest in two particular plan options, the Company Stock Fund and the Large Cap Stock Fund.

2. On September 30, 2013, after months of arm's-length negotiation, the Parties entered into a Settlement Agreement and request that the Court preliminarily approve the Settlement Agreement that is attached hereto as Exhibit A.

3. The Settlement Class is defined as:

All participants in the International Paper Company Salaried Savings Plan or the International Paper Company Hourly Savings Plan, excluding the Defendants, whose Plan accounts had balances greater than \$0 at any time between January 1, 1997 and May 31, 2008. The Class includes the Beneficiary of a deceased person who participated in the Plan at any time during the Class Period, and/or, Alternate

Payees, in the case of a person subject to a Qualified Domestic Relations Order who participated in the Plans at any time during the Class Period.

4. The Settlement includes two Sub-Classes. The Large cap Stock Fund sub-Class is defined as:

All participants in the Plans, excluding the Defendants, whose accounts held units of the Large Cap Stock Fund (LCSF) from April 1, 2002, through May 24, 2011 (the “LCSF Sub-Class Period”), and whose LCSF units underperformed relative to the Russell 1000 Index. This sub-class also includes the Beneficiary of a deceased person who participated in the Plan at any time during that period, and/or, Alternate Payees, in the case of a person subject to a Qualified Domestic Relations Order who participated in the Plans at any time during that period.

The Company Stock Fund Sub-Class is defined as:

All participants in the Plans, excluding the Defendants, whose accounts held units of the Company Stock Fund from April 14, 1998, through May 24, 2011 (the “CSF Sub-Class Period”) and whose units underperformed relative to the S&P 500 Index. This sub-class also includes the Beneficiary of a deceased person who participated in the Plans at any time during that period, and/or, Alternate Payees, in the case of a person subject to a Qualified Domestic Relations Order who participated in the Plans at any time during that period.

The Settlement is fundamentally fair, adequate, and reasonable in light of the circumstances of this case and preliminary approval of the Settlement is in the best interests of the Class Members. In return for a release of the Class Representatives’ and Class Members’ claims, Defendants have agreed to:

- (a) Pay a sum of \$30,000,000 into a Gross Settlement Fund; and
- (b) Institute Affirmative Relief as described in the Settlement Agreement (attached hereto as Exhibit A).

5. The purpose of preliminary approval is merely to determine whether the proposed settlement is “within the range of possible approval.” *Gautreaux v. Pierce*, 690 F.2d 616, 621 n.3 (7th Cir. 1982). The preliminary approval hearing is not a fairness hearing. *Id.*

6. The Settlement reached between the Parties here more than satisfies this standard and is clearly “within the range of possible approval” by the Court given the significant nature of the case and the result reached by the Plaintiffs. Preliminary approval will not foreclose interested persons from objecting to the Settlement and thereby presenting dissenting viewpoints to the Court.

7. Plaintiffs also submit to the Court a Memorandum in Support of this Joint Motion for Preliminary Approval, as well the Declaration of Class Counsel. Defendants are not submitting a Memorandum in Support of the Joint Motion.

WHEREFORE, the Parties request the following:

- That the Court hold a preliminary approval hearing to review the Settlement Agreement and to receive argument from Counsel regarding the adequacy of the Settlement;
- That following the preliminary approval hearing, the Court enters an Order granting its preliminary approval of the Settlement Agreement:
- That the Court order any interested party to file any objections to the Settlement within the time limit set by the Court, with supporting documentation, order such objections, if any, be served on counsel as set forth in the proposed Preliminary Approval Order and Class Notice, and permit the Parties the right to

limited discovery from any objector as provided for in the proposed Preliminary Approval Order;

- That the Court schedule a Fairness Hearing for the purpose of receiving evidence, argument, and any objections relating to the Parties' Settlement Agreement; and

- That following the Fairness Hearing, the Court enter an Order granting final approval of the Parties' Settlement and dismissing the Complaint in this Action with prejudice.

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CERTIFICATE OF SERVICE

I certify that on October 1, 2013, I filed this document with the clerk of the Court using the CM/ECF system which will send notification of such filing to the following:

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