

RECEIPT NUMBER

532726

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

11

INTERNATIONAL UNION, UNITED)
AUTOMOBILE, AEROSPACE, AND)
AGRICULTURAL IMPLEMENT)
WORKERS OF AMERICA; and EARL)
HENRY and BONNIE LAURIA, on)
behalf of themselves and all other)
persons similarly situated,)

Plaintiffs,

v.

GENERAL MOTORS CORPORATION,)
)
Defendant.)

JUDGE : Cleland, Robert H.
DECK : S. Division Civil Deck
DATE : 10/18/2005 @ 12:35:47
CASE NUMBER : 2:05CV73991
CMP UAW V GENERAL MOTORS (JLC)

Case No. _____

MAGISTRATE JUDGE VIRGINIA M. MORGAN
CLASS ACTION
DEMAND FOR JURY TRIAL

COMPLAINT

Plaintiff International Union, United Automobile, Aerospace, and Agricultural Implement Workers of America ("UAW"), by its attorneys Bredhoff & Kaiser, P.L.L.C., Daniel Sherrick, and Michael Saggau, and Plaintiffs Earl Henry and Bonnie Lauria (the "Class Representatives"), on behalf of themselves and all other persons in the proposed class described in this Complaint, by their attorney, William T. Payne, complain against Defendant General Motors Corporation ("GM") as follows:

1. This action is brought as a class action by the Class Representatives on behalf of themselves and a similarly situated class of retirees, spouses, surviving spouses, and dependents pursuant to Rule 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure, and by the UAW, the collective bargaining representative of relevant employees of GM and party to the collective bargaining agreements that establish rights to health benefits following retirement.

2. This is an action for a declaratory judgment pursuant to 28 U.S.C. § 2201 and 28 U.S.C. § 2202, for the purpose of determining a question in actual controversy between the parties, as more fully set forth below.

3. Count I is brought by all plaintiffs under § 301 of the Labor Management Relations Act ("LMRA"), 29 U.S.C. § 185. It seeks a declaration that rights to retiree health care benefits provided for under collective bargaining agreements between GM and the UAW cannot be unilaterally terminated or modified by GM, and a permanent injunction prohibiting such termination or modification.

4. Count II is brought by the Class Representatives under § 502(a)(1)(B) and (a)(3) of the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1132(a)(1)(B) and (a)(3). It seeks a declaration that rights to retiree health care benefits provided for under GM's employee welfare benefit plan cannot be unilaterally terminated or modified by GM, and a permanent injunction prohibiting such termination or modification.

JURISDICTION AND VENUE

5. This Court has jurisdiction over Count I under § 301 of the LMRA, 29 U.S.C. § 185, and over Count II under § 502(c)(1) and (f) of ERISA, 29 U.S.C. § 1132 (e)(1) and (f). Venue in this judicial district is proper under § 301 of LMRA, 29 U.S.C. § 185, and § 502(e)(2) of ERISA, 29 U.S.C. § 1132(e)(2).

PARTIES

6. Plaintiff and Class Representative Earl Henry is an adult resident of Elmira, Michigan. Until his retirement in 1988, plaintiff Henry was employed by GM in Flint, Michigan, where he was a member of a bargaining unit represented by the UAW. Under the

terms of the collective bargaining agreement between GM and UAW applicable at the time of his retirement, plaintiff Henry and his spouse and dependents are entitled to retiree health care benefits as set forth in this Complaint. After his retirement from GM, plaintiff Henry was elected by fellow retirees as the chairperson of the UAW retired workers council covering the Michigan counties of Otsego, Cheboygan, Antrim and Charlevoix.

7. Plaintiff and Class Representative Bonnie Lauria is an adult resident of West Branch, Michigan. Until her retirement in 2000, plaintiff Lauria was employed by GM in Bay City, Michigan, where she was a member of a bargaining unit represented by the UAW. Under the terms of the collective bargaining agreement between GM and UAW applicable at the time of her retirement, plaintiff Lauria and her spouse and dependents are entitled to retiree health care benefits as set forth in this Complaint. After her retirement, plaintiff Lauria was elected by fellow retirees as the chairperson of the UAW retired workers council covering the Michigan counties of Clare, Crawford, Gladwin, Missaukee, Ogemaw, and Roscommon.

8. Plaintiff UAW is a labor organization within the meaning of § 2(5) of the National Labor Relations Act ("NLRA"), 29 U.S.C. § 152(5), which *inter alia* represents certain GM employees in collective bargaining. The UAW's principal offices are located at 8000 East Jefferson Avenue, Detroit, Michigan 48214. The UAW has negotiated a series of collective bargaining agreements with GM, under the terms of which GM retirees and their spouses, surviving spouses, and dependents are entitled to retiree health care benefits, as set forth in this Complaint.

9. Defendant GM is a Delaware corporation with its principal offices located at 300 Renaissance Center, Detroit, Michigan 48265. GM also has extensive operations within this judicial district. GM was at all times relevant hereto an "employer" within the meaning of § 2(2)

of the NLRA, 29 U.S.C. § 152(2), and § 3(5) of ERISA, 29 U.S.C. § 1002(5), as well as “plan sponsor” and “administrator,” within the meaning of § 3(16)(A)-(B) of ERISA, 29 U.S.C. § 1002(16)(A)-(B), of the employee welfare benefit plan through which the retiree health care benefits at issue in this litigation are provided. GM is sued in its capacities as (a) party to the collective bargaining agreements with the UAW that established its obligation to provide retiree health care benefits, and (b) plan sponsor and plan administrator of the employee welfare benefit plan through which such benefits are provided.

CLASS ACTION ALLEGATIONS

10. The Class Representatives bring this class action on behalf of themselves and a class of former employees of GM who were represented by the UAW in collective bargaining and who retired from GM, having met the requirements in effect at their retirement for retiree health care benefits specified in the applicable collective bargaining agreement, as well as the spouses, surviving spouses, and dependents of those former employees who are also entitled to such benefits (the “Class”).

11. The exact number of members of the Class identified in the preceding paragraph is not presently known, but is approximately 500,000 and is so numerous that joinder of the individual members in this action is impracticable.

12. The health care benefits to which Class members are entitled pursuant to the collective bargaining agreements under which they retired are essentially identical for all members of the Class, regardless of the date or location of their retirement.

13. There are common questions of law and fact in this action that relate to and affect members of the Class, as set forth below in Counts I and II of this Complaint.

14. The relief sought is common to the entire Class, as set forth below in the "Relief Requested" section of this Complaint.

15. The claims of the Class Representatives are typical of the claims of the Class they represent, in that the claims of all members of the Class, including the Class Representatives, are that Defendant GM is obligated under LMRA § 301 and ERISA to provide them with vested retiree health care benefits, under the terms of collective bargaining agreements negotiated between the UAW and GM, and that GM cannot unilaterally terminate or modify those benefits. There is no conflict between any Class Representative and other members of the Class with respect to this action.

16. The Class Representatives are able to, and will, fairly and adequately protect the interests of the Class. The attorney for the Class Representatives is experienced and capable in the field of labor law and ERISA and has successfully prosecuted numerous class actions of a similar nature.

17. This action is properly maintained as a class action under Federal Rule of Civil Procedure 23(b)(2), in that GM has acted on grounds generally applicable to the Class by announcing that it will make unilateral changes in the retiree health care benefits it is obligated to provide to Class members, thereby making final injunctive relief or corresponding declaratory relief appropriate with respect to the Class as a whole.

FACTS

18. Pursuant to the terms of the collective bargaining agreements negotiated with GM by the UAW, GM is obligated to provide certain retiree health care benefits to the Class Representatives and the Class, and may not unilaterally terminate or modify those benefits.

19. The collectively bargained arrangement described above, pursuant to which retiree health care benefits are provided to the Class Representatives and the Class, is an "employee welfare benefit plan" within the meaning of § 3(1) of ERISA, 29 U.S.C. § 1002(1). The Class Representatives and the members of the Class are "participants" in the employee welfare benefit plan, within the meaning of § 3(7) of ERISA, 29 U.S.C. § 1002(7).

20. The terms of the employee welfare benefit plan require that GM provide certain vested retiree health care benefits to the Class Representatives and the Class members. Under the terms of the plan, GM may not unilaterally terminate or modify those benefits.

21. GM announced in June 2005 that in the near future it would make unilateral reductions in the health care benefits it is obligated to provide to its retirees and their spouses and surviving spouses and dependents under the collective bargaining agreements and the employee welfare benefit plan referred to above.

22. While GM did not reveal the specifics of the unilateral reductions it intends to make, GM's intent to make those unilateral reductions, in the absence of a litigation settlement, is imminent. GM's intent to make unilateral reductions is motivated by a perceived urgent need to reduce its health-care "burden" in order to avoid serious financial consequences for the company.

**COUNT I
VIOLATION OF COLLECTIVE BARGAINING AGREEMENT
LMRA § 301**

23. Plaintiffs re-allege and incorporate by reference all preceding allegations in this Complaint as though fully set forth in this Count I.

24. GM's stated intention to make unilateral changes in the retiree health care benefits it is obligated to provide to Class Representatives and the Class under the terms of the collective

bargaining agreements described above constitutes an anticipatory repudiation of that contractual obligation.

25. GM's breach of its collective bargaining agreements is actionable in this Court under LMRA § 301, 29 U.S.C. § 185.

COUNT II
VIOLATION OF EMPLOYEE WELFARE BENEFIT PLAN
ERISA § 502(a)(1)(B) and (a)(3)

26. Plaintiffs re-allege and incorporate by reference all preceding allegations in this Complaint as though fully set forth in this Count II.

27. GM's stated intention to make unilateral changes in the retiree health care benefits it is obligated to provide to Class Representatives and the Class under the terms of the employee welfare benefit plan constitutes an anticipatory repudiation of its obligations as plan sponsor and administrator of the plan.

28. GM's repudiation of the terms of the employee welfare benefit plan is actionable in this Court under ERISA § 502(a)(1)(B) and (a)(3), 29 U.S.C. § 1132(a)(1)(B) and (a)(3).

PROPRIETY OF DECLARATORY RELIEF

29. For the reasons stated above, there exists an actual controversy between Plaintiffs (and the Class the Class Representatives represent) and Defendant GM, which controversy can be resolved by a judgment of this Court. GM has declared that it will reduce retiree health care benefits provided to the Class Representatives and Class members in the near future. The UAW and the Class Representatives assert that those benefits may not be unilaterally terminated or modified, and that GM's announced intention of unilaterally reducing those benefits would be in

violation of the collective bargaining agreements and the terms of the employee welfare benefit plan, as set forth above in Counts I and II.

RELIEF REQUESTED

WHEREFORE, Plaintiffs respectfully request that this Court:

A. Certify this action as a class action, appoint Plaintiffs Henry and Lauria as Class Representatives, and appoint William T. Payne as counsel for the Class.

B. Declare that the retiree health care benefits set forth in the applicable collective bargaining agreements between GM and UAW, and in the employee welfare benefit plan may not be unilaterally terminated or modified by GM.

C. Permanently enjoin GM from terminating or modifying the benefits required to be provided to the Class Representatives and the Class under the terms of the applicable collective bargaining agreements and the employee welfare benefit plan.

D. Award the Class Representatives and Class members such benefits, pursuant to the terms of the collective bargaining agreements and the employee welfare benefit plan, and/or monetary damages, as necessary to restore them to the position in which they would have been but for GM's contractual and statutory violations.

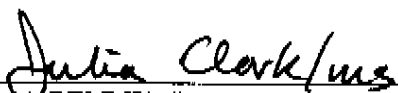
E. Award Plaintiffs their reasonable attorney's fees and costs incurred in this action.

F. Grant such further relief as may be deemed necessary and proper.

JURY DEMAND

Plaintiffs request a jury trial of all issues so triable.

Respectfully submitted,

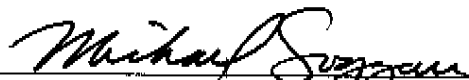


JULIA PENNY CLARK (DC Bar 229609)
JOHN M. WEST (DC Bar 424718)
DOUGLAS L. GREENFIELD (DC Bar 415164)
Bredhoff & Kaiser, P.L.L.C.
805 Fifteenth Street, N.W.
Suite 1000
Washington, DC 20005
(202) 842-2600



WILLIAM T. PAYNE (PA Bar 38083)
1007 Mt. Royal Boulevard
Pittsburgh, PA 15222
(412) 492-8797

Counsel for Plaintiffs Henry, Lauria and the
Class



DANIEL W. SHERRICK (P37171)
MICHAEL F. SAGGAU (P35326)
8000 East Jefferson Avenue
Detroit, MI 48214
(313) 926-5216

Counsel for Plaintiff UAW

JS 44 (Rev. 11/04)

CIVIL COVER SHEET County in which this action arose Wayne 2663

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS International Union, United Automobile Aerospace and Agricultural Implement Workers of America and Earl Henry and Bonnie Lauria

DEFENDANTS
General Motors Corporation

(b) County of Residence of First Listed Plaintiff Wayne
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant Wayne
(EXCEPT IN U.S. PLAINTIFF CASES ONLY)

JUDGE : Cleland, Robert H.
DECK : S. Division Civil Deck
DATE : 10/18/2005 @ 12:35:47
CASE NUMBER : 2:05CV73991
CMP UAW V GENERAL MOTORS (JLC)

Daniel Sherrick and Michael Saggau (for UAW)
8000 E. Jefferson Ave. Detroit, MI 48214 (313)926-5216
(c) Attorney's (Firm Name, Address, and Telephone Number)
William T. Payne (for Henry & Lauria), 1007 Mt. Royal Blvd. Pittsburgh PA 15223 (412)492-8797

II. BASIS OF JURISDICTION (Select One Box Only)

1 U.S. Government Plaintiff
 3 Federal Question (U.S. Government Not a Party)
 2 U.S. Government Defendant
 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP (For)

Citizen of This State 1 Incorporated or Principal Place of Business In This State
Citizen of Another State 2 Incorporated and Principal Place of Business In Another State 5
Citizen of Subject Foreign Country 3

IV. NATURE OF SUIT (Select One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veterans' Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input checked="" type="checkbox"/> 720 Labor/Mgmt. Relations & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Impl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Annuity <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Select One Box Only)

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from another district (specify)
 6 Multidistrict Litigation
 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
ERISA 29 U.S.C. Sec 1001 et seq. and LMRA 29 U.S.C. Sec 141 et seq.
 Brief description of cause:
Action for retiree health care benefits

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$ Unknown Amount CHECK YES only if demanded in complaint: JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE _____ DOCKET NUMBER RA

DATE 10/17/05 SIGNATURE OF ATTORNEY OF RECORD Michael Saggau

FOR OFFICE USE ONLY: RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

PURSUANT TO LOCAL RULE 83.11

1. Is this a case that has been previously dismissed?

Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

2. Other than stated above, are there any pending or previously discontinued or dismissed companion cases in this or any other court, including state court? (Companion cases are matters in which it appears substantially similar evidence will be offered or the same or related parties are present and the cases arise out of the same transaction or occurrence.)

Yes
 No

If yes, give the following information:

Court: _____

Case No.: _____

Judge: _____

Notes :
