

Update - March 16, 2009

Partial Settlement Update – We continue to work with Honeywell to resolve some outstanding issues surrounding the partial settlement. All participants who submitted claim forms who Honeywell has determined are not eligible for partial settlement benefits should have already received a letter explaining Honeywell’s determination and giving the individual a chance to appeal the determination.

We continue to litigate the Remaining Claims. These claims are:

1. The SBA Offset Claim, which is the claim that the Defendants violated ERISA’s “anti-cutback” rule by increasing the interest rate used to project a portion of Secured Benefit Account (“SBA”) balances to age 65 for purposes of calculating the SBA offset for participants who terminated their employment or retired before age 65
2. The Social Security Offset Claim, which is the claim that the Defendants violated ERISA’s “anti-cutback” rule by applying a Social Security offset to benefits attributable to years of service worked prior to the adoption of the offset, and
3. The Minimum Benefits Claim, which includes the claims that Defendants violated the terms of the retirement plan by applying an SBA offset to the minimum benefit formulas, and that Defendants violated ERISA’s “anti-cutback” rule and notice requirements by amending the retirement plan to apply an SBA offset to the minimum benefit formulas.

In the ongoing litigation, as we previously advised, the Court recently granted Defendants’ Motion for Reconsideration of the judgment. The Court held that based on a Treasury letter interpreting 1977 regulations, that summary judgment in Plaintiffs’ favor was no longer appropriate on the two “anti-cutback claims.” The court did not grant Defendants’ motion to dismiss, however, as Defendants had requested. Instead, the Court held that there were factual issues remaining for trial.

The court also allowed the Defendants to file a motion attacking the decision in Plaintiffs’ favor on the Minimum Benefits claim. The Defendants have alleged that Plaintiffs are not entitled to damages on this claim. As an alternative, the Defendants have alleged that the Court was incorrect in ruling for Plaintiffs on this claim. We will be filing an opposition to this motion in April.

As you may recall from our last update, we are also still waiting for the Court to rule on a pending motion to compel documents before completing the discovery process. The judge has now referred the issue to a special master who is a Magistrate Judge to help resolve the issue. We appeared in court on February 26 before the Magistrate Judge. After the Magistrate Judge files his report and recommendation, both sides will be able to file objections and the Judge will issue her ruling. Once that ruling is issued, both sides will have time to complete additional discovery, including discovery of experts, before filing additional motions for a ruling on the merits. We cannot predict when the court will make its ruling.